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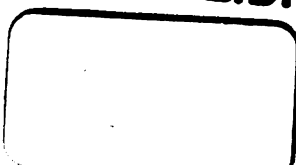
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The Accountant^{ct}

THE RECOGNISED WEEKLY ORGAN OF CHARTERED ACCOUNTANTS
AND
ACCOUNTANCY THROUGHOUT THE WORLD.

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FROM JULY TO DECEMBER 1906.

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Leading Articles.

The Scope of an Auditor's Duties.

IN the present state of public opinion anyone who has a word to say in favour of the manner in which American life insurance companies transact their business runs a very considerable risk of coming in for a fair share of criticism, and may consider himself fairly fortunate if his *bona fides* in the matter is not directly impugned. The effective observer of human nature will notice, however, that upon such occasions when sentiment is apt to supplant judgment, the man in the street is apt to come in a very bad second as compared with the daily press. But even allowing for all these considerations, which it would certainly be most unwise to leave out of account, we must confess to a certain feeling of surprise at a paragraph which appeared in a recent issue of *The Financial News*, attacking the certificate

given by Messrs. PRICE, WATERHOUSE & CO., Chartered Accountants, in connection with the accounts of the New York Life Assurance Company.

The certificate referred to is stated to have contained the following paragraph, to which exception is taken :—" The general administration of the company is well organised, its management is sound, its business methods and system of collecting premiums are effective and economical, and its books and records are well and accurately kept."

Our contemporary states that statements which deal with the "general administration" of a company can only rest on the vaguest of premises, and adds that it passes its comprehension how such a firm could possibly certify that the general administration of a company was well organised.

We have not the whole certificate before us, and do not know when and under what precise circumstances it was given, nor whether it was given for publication among policy-holders or was part of a report to the head office administration on the management of the outlying branches. Nevertheless, and granting, in view of recent events, the courage of a firm of accountants who, in the face of recent disclosures, are apparently prepared to give a clean bill of health to the management of a life insurance company transacting business in the United States, we may point out that, so far from its being a practical impossibility for an accountant to certify whether the general administration of a company is well organised, it is in the nature of things one of the points upon which the intelligent and experienced auditor would naturally seek to satisfy himself

before giving any certificate or report whatever. Bearing in mind that of necessity the auditor of a really large and important undertaking cannot by any possibility verify at first hand every single transaction that has taken place, it is clear that for some purposes at least he must rely upon evidence produced to him at second hand that such verification has been performed by others, those others being in the employment of the company whose accounts are the subject of inquiry. Before accepting such evidence as being of any value whatever, it becomes the duty of the auditor to satisfy himself that there is in existence an efficient system of internal check such as would render any serious inaccuracy of the accounts as a result of individual dishonesty a matter of practical impossibility. Having satisfied himself upon that point—which we regard as in all cases absolutely necessary—the auditor is in a position to definitely state that in his opinion the general administration of the company is well organised.

To state that the management is sound raises a somewhat different issue. Speaking quite generally, and apart from this certificate or the assurance company concerned, a business may be thoroughly well organised from top to bottom, and it may be that not so much as a postage stamp is pilfered in the course of a twelvemonth, and yet there may be corruption at the head if not at the root of the whole undertaking; and if the head be corrupt, the management cannot, of course, be entirely sound, for all management proceeds from the head. It is thus an open question whether the ordinary routine work of an audit would in all cases justify the auditor in certifying that "the management is sound" and accordingly

it is not a little amusing to observe that this is just the one clause that our contemporary has omitted to criticise, thus showing its incapacity to duly appreciate the crux of the matter at issue.

With regard to the statement that the company's business methods and system of collecting premiums are effective and economical, that is, of course, in the nature of an expression of opinion, but it is capable of being verified so closely as to become almost a question of fact. The cost of collection and the proportion of irrecoverable items can be readily ascertained from a detailed inspection of the books, and a comparison of the result with those achieved by other companies carrying on a similar class of business would provide the necessary data to enable anyone to express a reliable opinion upon so comparatively simple a matter. In the same way, it is clear that if anyone is in a position to express an opinion as to whether or not the books and records of a company have been well and accurately kept, it must be the accountant whose duty it has been to audit the accounts and verify the books and records. An accountant who has had no experience whatever of other undertakings carrying on a similar business might, of course, be misled upon such a point, and might, in ignorance of the methods pursued by other undertakings, arrive at the conclusion that those with which he had become acquainted were—inasmuch as they answered their immediate purpose—entitled to be regarded not merely as accurate, but also as well kept; but to a firm of Messrs. PRICE, WATERHOUSE & Co.'s experience, such a reservation is, of course, absurd. It may be taken for granted that when they express such an opinion they do so bearing in mind what is usual among other similar

concerns; and if they have expressed the view that the books and records of a company are well and accurately kept, it may be safely assumed that they are as well and accurately kept as those of any similar concern. If our contemporary wishes to quarrel with this finding it must of necessity impugn the good faith of Messrs. PRICE, WATERHOUSE & Co., and that, of course, it carefully abstains from doing by prefacing its comments with the statement that concerning the standing of that firm as accountants there can be no two opinions.

For our own part, we cannot help thinking that, in view of the general distrust that has arisen in the minds of the British public concerning the position of all American life insurance companies, the New York Life Assurance Company has been well advised to secure what may be regarded as a clean bill of health from its auditors. And, while fully appreciating the importance of no such bill of health being given save after the most careful and exhaustive inquiry, we cannot too strongly protest against the suggestion put forward by our contemporary that it is incompetent for an accountant to express an opinion on the general administration, organisation, economy of management, and accurate bookkeeping of any business undertaking.

Municipal Treasurers' Conference.—II.

BY way of further extending the point in regard to Sinking Fund, dealt with in our last issue, and presumably of bringing it down to the grasp of the general public, Mr. THORPE states that if a private trader

leases his premises and simply pays an annual rent for twenty or thirty years, the premises still belong to the lessor at the end of that period, whilst, on the other hand, a municipality would have paid out of its profits not only the interest to the mortgagees which is equivalent to the lessee's rent, but have paid for the premises in addition. Without pausing to inquire what would be the residual value of a twenty or thirty years' lease to the lessee at the end of the prescribed period, we may point out that the *pro forma* case, irrelevant as it is, has not the merit of being fairly stated. A private trader who leases his premises for twenty or thirty years, or for any other period, in addition to charging the annual rent payable to the lessor against current revenue, writes off against Revenue during the period of the lease the amount of the original premium paid by him at the commencement of his tenure, so that at the time his lease expires the whole of the expenditure incurred by him from first to last in connection with the matter has been equitably written off against Revenue in successive years. In the case of a local authority, if, in addition to charging interest on loans and annual ground rent against Revenue, a Sinking Fund has been accumulated sufficient to redeem the original debt, at the expiration of the lease the position attained to is exactly the same as that of the hypothetical private trader—no better, no worse. It is absurd to speak of the local authority having paid for the premises in addition, when the ownership of the premises has passed back to the lessor. It is mentioned that Bradford has completed the purchase of one of its public baths through the operation of its Sinking Fund. Doubtless, however, the land upon

which the bath was erected was the corporation's freehold, in which event the example cited is, of course, valueless for the purpose of illustrating the principle which it is sought to advance.

We entirely agree that misrepresentation, even from a selfish point of view (whatever that may mean, for we can conceive no unselfish form of misrepresentation), is as impolitic as it is unwise; and surely this generalisation applies with as much force as it ever could apply to such a statement as this: "The Sinking Fund of the corporation gradually and surely pays off the whole of the borrowed capital, after which the ratepayer becomes the absolute owner of the property which he has created. That property becomes thenceforward a profit-making power; it creates wealth for the community, promotes its comfort, and raises the common standard of life." Here we have again, in clear words, a definite statement that the effect of the Sinking Fund is to gradually redeem debt and to thereafter place the local authority in possession of assets in a full state of efficiency as profit-makers. If all assets lasted for ever, or if Revenue were charged from year to year with a sufficient sum to make good any shrinkage in value which actually takes place, this would, no doubt, be a statement of fact, but not otherwise; and how, in the absence of due provision for depreciation, Mr. THORPE proposes to maintain his wasting assets in a perpetual state of efficiency it would be most interesting to know. As we have repeatedly stated, the same charge against Revenue cannot by any possibility serve two distinct purposes. The Sinking Fund instalment is earmarked for the redemption of debt,

and therefore cannot be applied for renewals. It is therefore in no proper sense of the term a provision for wasting assets. The most that can be hoped for under such circumstances is that, if the assets outlast the period of the loan, when the necessity for renewal arises, the money to provide for such renewal may be raised by further borrowings, and thus the cycle of events repeated. To suppose that the methods at present employed by all but a very small minority of local authorities would ever have the effect of producing a condition of affairs when the municipality stands in possession of a profit-earning undertaking freed of debt, is to look forward to that which, in the nature of things, can never happen, and would never be expected to happen, and would scarcely have been foretold by anyone with a proper opinion upon the subject at issue.

Associations of Accountants and Professional Interests.

IN common doubtless with the majority of our English readers, we have hitherto been under the impression that the arrangements between the Edinburgh University and the Edinburgh Society of Accountants, under which all students apprenticed to members of the last-named body were required to attend courses on Scots Law and Conveyancing at the University, represented a distinctly strong feature in the training of an Edinburgh Chartered Accountant. This impression is, however, somewhat ruthlessly dispelled by an editorial which appears in the last issue of our Scottish contemporary, which no doubt

expresses the official views of the Society of Accountants of Edinburgh.

It appears that in Scots Law a very great part of the session is occupied with that which an accountant, as such, has no concern in, while some of those subjects which he really requires, such as Bankruptcy and Company Law, are of necessity less fully treated than he would desire. It is, moreover, pointed out that in Conveyancing also the accountant student is at a decided disadvantage as compared with a law student, in that the latter is in more or less daily contact with documents and phrases which are empty abstractions to the former, who in consequence, if he does attempt to do well, has the mortification of seeing himself outstripped by others who are by no means his intellectual superiors. Why a Chartered Accountant in Scotland, or anywhere else, should be expected to possess the slightest knowledge of so highly technical a law subject as Conveyancing we are utterly at a loss to understand. But we can quite appreciate that he would be at a material disadvantage to the average law student at an examination following such a course of University lectures; and, assuming he should take his defeat seriously, the result might well be discouraging. According to our contemporary, however, the Edinburgh accountant student appears to regard the whole matter as a huge joke, which may save him from fits of unnecessary despondency, but can hardly be said to effect a saving of his time. Assuming, however, that the value of this commodity may be regarded as a negligible quantity, many will be inclined to think that he might do worse than attend a course of University lectures on any reasonable subject rather than kick his heels about his

principal's office doing nothing at all. The Scottish undergraduate has, however, his own methods, and some of these at least seem to have been acquired by the C.A. students attending the legal lectures, if our contemporary's statements can be implicitly relied upon.

The statements to which we have so far alluded are not put forward as arguments in favour of the abolition of the existing arrangements between the Edinburgh Society and the University, but in support of a plea for the expansion of the Economic Department of the University from the pen of Professor J. SHIELD NICHOLSON, which appeared in *The Scotsman* of the 23rd and 25th April last. Our contemporary, while cordially supporting this plea, urges its further extension with a view to instituting a Faculty of Commerce and creating Chairs in Accountancy and Mercantile Law as well as in Economic History and Geography. It is not, it seems to us, very material whether the instruction given in specified subjects be undertaken by someone described as a Professor or as a Lecturer, so long as it be of the desired nature and quality. But from a University point of view the point to be aimed at necessarily is not the institution of courses of lectures that may happen to be suitable to outside bodies so much as the formation of a definite and comprehensive scheme of training that will confer a definite and appreciable value to a degree granted to those who have passed through that course with satisfaction to their examiners. At the same time, the statement that if the more comprehensive scheme were to be undertaken the Society of Accountants would probably see its way to come forward with pecuniary aid, puts the whole matter in another and a more business-like light,

and indicates at least one direction in which an association of accountants like the Edinburgh Society, whose scope of operations is at all events theoretically limited to a certain definite territorial area, may with advantage embark upon schemes for the advancement of its interests which would be extremely difficult, if not wholly impracticable, in connection with a larger and more representative body. The Birmingham Society of Chartered Accountants can either collectively, or individually through its members, assist, and in its turn derive considerable benefit from, the University of Birmingham, and the Manchester Society can in the same way reciprocate with the Victoria University of Manchester, and so on. But even supposing the Institute of Chartered Accountants were to entertain the idea of approaching the University of London with a view to its formulating an alternative curriculum for the degree of Bachelor of Science in its Economic section, and even supposing that the University were to be prepared to look favourably upon the idea, there can be little doubt that the majority of provincial members would consider that any really substantial funds applied for the furtherance of such an end would be to the advantage only of a very limited section of the membership, and therefore unfairly spent.

It is when we come face to face with such a problem as this that we appreciate that, in spite of its numerous advantages in other directions, London is in point of fact somewhat badly served in others by its various learned and professional societies. Doubtless London members are in a position to derive more advantage from purely general benefits (in consideration of which they, of course, pay a largely increased subscription);

but nothing can be done by a parent society for their exclusive benefit, whereas grants in aid may be, and are, made to provincial Societies for such purposes. Whatever his walk in life may be, it is to the disadvantage of the Londoner that, whereas he has increased opportunity of enjoying facilities that are open to the nation at large, he has practically no local facilities whatever. This no doubt is very largely due to the almost entire absence of social life in London of such a kind as to lead to these special or professional facilities, but we cannot help thinking that, inasmuch as no practical difficulty has been experienced in founding and maintaining in a very high state of efficiency the Students' Society for London, it ought to be equally practicable to found a society for practitioners upon the same lines as those obtaining in each of the leading provincial centres. The mere question of funds certainly cannot of itself represent any insuperable difficulty, and, inasmuch as the vast majority of the leading practitioners are Londoners, the question of a suitable *personnel* for the organising body would, one would imagine, be equally capable of ready solution. What is wanted, it seems to us, is not so much a society merely existing in name, holding meetings which practically no one attends, and transacting business in which but few take a personal interest, but rather an association, even if only of quite limited membership, where practitioners may have opportunities of meeting each other from time to time, discussing such questions of interest as may arise, and of generally conferring with a view to the furtherance of objects for their mutual benefit and that of the profession at large. Incidentally, it may be pointed out that the establishment of such a London

Society would place the Metropolis upon an equality with the provinces with regard to so important a matter as representation upon the Council of the Institute. At the present time, as has been frequently pointed out in response to criticisms expressed at various general meetings, the provincial members of the Council are for all practical purposes elected by their respective local Societies, subject only to the more or less formal approval of the Institute itself—a system which possesses many advantages of a general election without any of its attendant and somewhat obivous drawbacks. We put this forward not as a reason for the establishment of a London Society, but as one of the ways in which such a society might be found to be more generally advantageous if it existed.

It was at one time hoped that the Chartered Accountants' Dining Club would serve this useful purpose of bringing Metropolitan members together, but—whatever the reason may have been—the effort has not been successful, so far at least as this purpose was concerned. The Masonic Lodge, which was consecrated last week, may perhaps stand a better chance, but it is the general opinion that very large lodges are rarely an unqualified success; and, of course, it would have to be a *very* large lodge to hold any appreciable proportion of the London members of the Institute. We are, therefore, perforce driven back to our original idea of a London Society upon the lines of the various provincial Societies; and there are no grounds for supposing that it would not in practice accomplish many desirable objects.

Weekly Notes.

The Rock Life Assurance Company.

The annual meeting of the Court of Proprietors of the Rock Life Assurance Company was held on the 31st May last, when the accounts for the year ended the 31st December 1905, the hundredth year since the establishment of the company, were submitted and approved. These accounts show that during the past year 1,530 new policies had been issued, assuring £777,687 and producing a premium income of £34,761, the total net premiums for the year being £212,278. In the Accident Insurance Department the net premiums were £44,611, and the claims £26,404. The company's Balance Sheet shows an unusual feature, namely, shares of the company purchased by itself which figure as an asset for £527,532, the authority for the transaction being contained in the company's private Acts of 1864 and 1889. No doubt these transactions are stated in the form required by the statutes in question, but we cannot help thinking that the position of the company would be better shown if the shares purchased were deducted from the issued capital, in which event the assets would not be swollen by an amount exceeding half a million sterling, which cannot be properly regarded as actually available to meet such claims as may arise. In addition to the three lay auditors, the accounts have been submitted to a weekly continuous audit by Messrs. Ball, Baker, Deed, Cornish & Co., Chartered Accountants, whose signature also appears at the foot of the audit certificate. The securities are stated to have been taken at the figures shown in the Balance Sheet at the last quinquennial valuation in December 1902, when the whole of the investments were specially investigated and revalued by the directors, and the investments bought subsequently to that date are stated to have been included at cost price. There can be little doubt that in the course of the three years there must have been a shrinkage in the value of these investments in the aggregate, but the amount of that shrinkage cannot, of course, be gauged from an inspection of the published accounts, and is nowhere stated.

Accountants Advertising.

A correspondent has forwarded to us a somewhat amusing touting circular which, he states, was recently received by one of his clients. This circular states that knowing from past experience that many City firms will not retain the

services of a professional firm of accountants to verify the accuracy of their books at regular periods on account of the heavy fees charged in the profession, and on account of the great lack of interest taken in their clients, the writers venture to ask to be allowed the privilege of submitting an estimate, and there are two other paragraphs to the same effect. The firm in question is stated at the head of its note-paper to have been established in 1848 and to have offices in three different parts of England, but its name does not appear in "The Accountants' Directory." It is to be assumed that unless such circulars sometimes attracted business they would not be issued, although it is certainly difficult to conceive how any business house can be so simple as to entrust such an important duty as the audit of its accounts to entirely unknown persons who do not even conduct their business in accordance with the recognised rules of professional etiquette. We have, however, upon many occasions pointed out how the practice might be effectively stamped out in a very short space of time, assuming that it was thought worth while to take the trouble. We have suggested that the Institute should follow the practice of the Committee of the London Stock Exchange and spend a certain amount of money each year in advertising in the columns of the press the fact that its members are not allowed to advertise, stating where and at what price official lists of members can be purchased, so that those desirous of doing business with qualified Chartered Accountants, and with them alone might be provided with a ready means of making sure that they carried out their intention.

The Dublin Corporation and its Official Auditor.

In our issue of the 23rd ult. we mentioned that, owing to the attitude adopted by the Dublin Corporation and its Town Clerk, it had been necessary for Mr. J. W. Drury, the Local Government Board Auditor, to apply to the Court for a *mandamus* to compel the production of the necessary books and accounts to enable the audit to be made. After a slight delay rendered necessary by the view adopted by the Lord Chief Baron that the Corporation should be joined in the proceedings, the Court has granted the *mandamus* asked for, and indeed it is difficult to see what other course was open to it. The Corporation seems to have taken a singularly wrong-headed view with regard to

matter from first to last, and cannot be said to have improved a bad case by having recourse to personal abuse which would certainly be regarded as surprising anywhere outside Ireland. The case, as it turns out, is of little or no professional interest, save that it suggests perhaps that some Corporations have inflated ideas as to their powers and as to the control that the Local Government Board is entitled to exercise.

The Birmingham Small Arms Case. In our next issue we shall commence the first of a series of articles dealing fully with the important decision delivered by Mr. Justice Buckley last week in the action of *Newton v. The Birmingham Small Arms Company, Lim.*, as to the power of a company by its articles of association to create a Secret Reserve, and to withhold from the auditor the right of reporting to the shareholders thereon.

Postal Improvements. On and after the 1st inst. the poundage on money orders for payments abroad has been reduced from fourpence to threepence in respect of sums not exceeding £1, and upon the same date there have been reductions made in the poundage charged on certain values of postal orders. The rates of postage for inland parcels exceeding four pounds have been reduced, so that now a parcel not exceeding five pounds may be sent anywhere in the United Kingdom for sixpence, and parcels from seven pounds to eleven pounds at the rate of one penny per pound.

What is an Accountant? At the last public sitting of the War Stores Commission the question was raised as to the qualifications of a certain officer to deal with contractors in South Africa, and the President appears to have expressed surprise at the appointment of a man who had had no experience of dealing with contractors, and was simply an accountant. His Lordship is reported to have added:—"Of course, if you think that a man who has been dealing with accounts is sufficiently competent to deal with contractors themselves, that is sufficient for me. You take a gentleman who is an admirable accountant and put him in a position where he has to deal with a number

"of men who are not particularly honest, and very particularly sharp." The idea that an accountant, as such, would by reason of his occupation be unfitted to drive shrewd bargains, will probably strike the majority of our readers as somewhat humorous; but it must be borne in mind that the qualifications of the officer under discussion were not in any commercial sense of the term those of an accountant: he was, we gather, merely an examiner of accounts in the War Office, and, as such, it is quite conceivable had but little experience of men or of affairs.

Bankruptcy Law Amendment in Ireland.

In reply to a question asked in the House of Commons last week, the President of the Board of Trade stated that the terms of reference to the Departmental Committee appointed to inquire as to the working of the Bankruptcy and Insolvency Acts was sufficiently wide to include Ireland, but the Committee had on it no representative of Irish opinion. It was a purely departmental Committee, and as the powers of the Board of Trade in relation to bankruptcy matters do not extend to Ireland, they would not be justified in investigating the question of the Irish bankruptcy laws, except with the assent of the Irish Office. It is, perhaps, hardly necessary to add that the question may have been put to Mr. Lloyd George in view of the known desire of business men in Ireland that their bankruptcy law should be altered so as to be uniform with that obtaining in this country.

The Chambers of Commerce Congress.

The Congress of the Chambers of Commerce of the Empire will assemble this year in London, and the proceedings will be opened by the Secretary for the Colonies on the 10th inst. Commercial representatives will attend from all parts of the British Empire, some five hundred delegates being expected to be present. There are over seventy resolutions on the programme, but while most of these are interesting some of them are of such a controversial character as to preclude mention in these columns. We note, however, that such questions as the abolition of taxes levied in certain Colonies on British commercial travellers; resolutions against shipping countries and rebates and gambling in "futures," encouraging the

investment of British capital within the Empire; the compulsory adoption of the metric system of weights, measures, and currency; the unification of the bankruptcy laws of the Dominion of Canada; and the adoption of a system of registration of firms, are to be dealt with, and it will be very interesting indeed to note the various arguments put forward. The social side of the question has not been overlooked, and the programme of entertainments for the enjoyment of the delegates is both long and satisfactory. The last meeting of the Congress was held in Canada in 1903.

The Position of a Director. Although the *Peak Hill Gold Field* case does not appeal particularly to members of the profession, we would call attention to the remarks of Mr. Justice Warrington, which are useful to remind us of the fiduciary position of a director. His Lordship is reported to have said:—

"The director of a company was in a fiduciary position towards it and was bound to exercise in all his dealings with the company and its concern the utmost good faith. He could not retain on his own account and for his own benefit any advantage he might obtain by reason of his position as a director or his connection with the company and its property, nor any property the acquisition of which by him and its retention might operate to the detriment of the company unless he was in a position to show that the company, with full knowledge of all the facts and circumstances surrounding the acquisition by the director of the company in question, had agreed to his retaining it."

Foreigners and Taxes. Referring to the Weekly Note in our last issue upon this interesting point, the following letter is said to have been sent by Earl Percy, M.P., to Mr. J. Landfear Lucas, of the Junior Constitutional Club, London:—

"House of Commons, June 26 1906.

"DEAR SIR,—I am obliged for your letter of the 25th relating to the payment of income-tax by foreigners occupying, only temporarily, business premises in London. The subject is one which will, no doubt, receive the consideration of the Committee whose attention has apparently already been called to it; but I do not myself perceive how it could be dealt with, except by compelling every income-tax payer to make more frequent returns—an expedient which would probably be felt to cause great inconvenience.—Yours faithfully,

(Signed) PERCY."

A financial contemporary points out that if an Englishman puts his name on the door of a one-room fifth-floor office in a City building, he may expect to receive within a week an income-tax form, followed quickly by a demand for payment, and it is suggested that the same ceaseless vigilance which is applied to Britishers might also be extended to foreigners. We think there is some cause for complaint in the matter, but we should have thought that the voracity of the Inland Revenue authorities would not have overlooked this source of revenue.

New Company Registers. In reply to a question put in the House of Commons last week by Mr. Barran, the President of the Board of Trade said that new registers of joint-stock companies at Somerset House had been in preparation for some time, and it was expected that they would be ready for purposes of reference within the next three months. The copies usually last about five years, but owing to the large number of persons using them lately, the registers had not lasted so long, and were, as the hon. member stated, so much worn that it was impossible to trace the names of many companies.

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinions expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Departmental Committee on the Accounts of Local Authorities.

(To the Editor of The Accountant.)

SIR,—The annexed question, which was put at my request by Mr. George H. Radford, M.P. for the East Division of the Parliamentary Borough of Islington,

has elicited an indecisive reply from the President of the Local Government Board.

As this matter is of unusual public interest at the present time, will you kindly insert same in your next issue.

Yours faithfully,

29th June 1906.

E. A. R. ADAMS.

Question 40.—Mr. Radford: To ask the President of the Local Government Board if he will cause the proceedings and minutes of evidence already taken by the Departmental Committee on the Accounts of Local Authorities to be printed and published during the Parliamentary recess; and if he will subsequently arrange that representatives of the Press be admitted to any future sittings of the Committee (27th June 1906).

A.—Mr. John Burns: It rests with the Committee to determine on their procedure, and I understand that they decided, at their first meeting, that it would be undesirable to publish the evidence taken by them until the conclusion of their Inquiry, or to admit representatives of the Press to their meetings (27th June 1906).

Hon. Members' Subscription to London Students' Society.

(To the Editor of The Accountant.)

SIR,—I should like to mention a point which may have been discussed before in your columns.

Under the present rules of the London Students' Society all hon. members who have been in practice for three years have their subscriptions raised from 10s. 6d. to £1 1s.; this, I know, causes many young practitioners to cease to be members who would otherwise continue to support the Society, and appears to me to be rather a mistaken policy.

The Society is so much more useful to ordinary members than to hon. members that it would not be unjust to the former to raise their annual subscription to 15s., and reduce that of the latter to a nominal amount of, say, 5s.

If this reduction was made it need not stop the members of the larger firms from continuing to pay £1 1s. per annum, and I feel sure it would result in a much larger proportion of the London members of the

Institute supporting the Society, and would thus assist in making it self-supporting.

Yours faithfully,

4th July 1906.

M. H.

Estate Duty.

(To the Editor of The Accountant.)

SIR,—I shall be glad to have your opinion, or that of your readers, on the following points arising out of a trust. Testator has left his estate to be equally divided among his children, subject to:—

- (1) Advances made during his lifetime to child A. being brought into hotchpot and deducted from A.'s share.
- (2) A portion of estate consisting of freehold property being sold by the executors to child B. for a fixed sum to be deducted from B.'s share. The sum mentioned is considered to be below the real value of the property.

Query:—Will both (1) and (2) have to be included for probate as part of testator's estate subject to estate duty, or will same be excluded from Probate Account, but duty at 1 per cent. paid by A. and B. at time of passing Residuary Account? Also, have the Commissioners of Inland Revenue power to elect that (2) shall be valued for estate duty at a higher figure than the estate receives from B., the purchaser?

Thanking you in anticipation,

I am, Sir, yours faithfully,

27th June 1906.

EXECUTOR.

[Both (1) and (2) must be brought into account for estate duty at their fair value. The Commissioners of Inland Revenue have the final word as to what is the true value of any asset.—Ed. Acct.]

The Future of Articled Clerks.

(To the Editor of The Accountant.)

SIR,—I have read the leading article in your issue of 16th inst., and I agree with the views which you express.

The position of the profession at present is most unsatisfactory, and many of the offices of Scotch C.A.'s

are little better than schools for training premium clerks or for getting work—principally auditing—done for next to nothing.

The English C.A.'s need not be the least backward in protesting against this state of matters. It is only ten years ago since the Scottish Chartered Societies promoted a Bill to prohibit, under a heavy penalty, any Chartered Accountant, not being a Scotch C.A., from using the title "Chartered Accountant" in Scotland. This would have prevented every member of the Institute from using his distinctive description and initials in Scotland.

Further, the Scotch Chartered Societies, in a public document, claimed—sixteen years after the Institute obtained its Charter—to have long *exclusively* used the distinctive description of "Chartered Accountant."

As a Scotchman resident in England, but although qualified not practising, I speak with freedom. What I think is really and urgently needed is an understanding between the Institute and the Society, which have aims and interests in common.

Yours truly,

June 27th 1906.

DELTA.

Treatment of Losses made prior to Incorporation of Company.

(To the Editor of *The Accountant*.)

SIR,—The following particulars have come under my notice, and I shall be glad if you or your readers can give me information upon the points involved:—

The X. Y. Z. Company, Lim., was incorporated on the 11th February 1906, taking over the business of X. Y. Z. as and from the 31st March 1905.

The purchase-price was fixed at £20,000 (of which £4,000 was for goodwill) payable in the following manner, that is to say:—

£5,000 By Debentures, carrying interest at 5 per cent. per annum.

1,000 By twelve Bills payable at intervals of one month, commencing on the 1st April 1906; and

14,000 By the allotment of 14,000 £1 Shares as fully paid-up in the company.

£20,000

The agreement for sale provides that—

- (a) Interest be paid from 31st March 1905 on the unpaid balance of purchase money.
- (b) The vendors be appointed managing directors, as and from the 31st March 1905, at a salary of £500 each per annum.
- (c) The vendors be also appointed directors at an annual fee of £50 each.

The conditions attached to the debentures provide that they carry interest as from 31st March 1905.

The company closed its books on the 31st March 1906, and the past year's trading has resulted in a loss of some £2,000, which is after charging for a full year's—

- (a) Interest on debentures.
- (b) Interest on vendors' unpaid purchase money.
- (c) Managing directors' salaries.
- (d) Directors' fees.

The managing directors (who, as stated above, are the vendors) are considerably surprised at this result, and suggest that a portion of the loss—namely, from the 31st March 1905 (the date as and from which the company took over the business) to the 11th February 1906 (the date upon which the company was incorporated)—be capitalised, and that such capitalisation be cancelled or reduced by their surrendering 2,000 of the fully-paid £1 shares allotted to them in part consideration of the purchase money.

I am unable to find any cases reported exactly similar to the above, and I shall be glad to know if the course suggested can be adopted, and, if so, in what way; and whether the managing directors' salaries, directors' fees, interest on debentures, and vendors' purchase money should be apportioned to the 11th February, or whether some, or any, of these charges are payable by the company entirely out of its available profits since incorporation.

I shall be glad to have the benefit of your reader's views upon the above points.

I am, dear Sir, yours faithfully,

28th June 1906.

ANACA.

[We will deal with this point in an early issue.—*E Acct.*]

Voluntary Liquidation.*(To the Editor of The Accountant.)*

SIR,—Is it necessary for a liquidator to go through the form of settling the list of contributories in the case of a company whose shares are fully paid? Recently a body of shareholders were thrown into a very uncomfortable frame of mind by receiving notice of a settlement of their list. Their shares were fully-paid, so far as they knew, but they were very uncomfortable until it was ascertained that a mere matter of form was being carried out.

Having completed the realisation, what steps can a liquidator take for his own protection to determine the order of distribution? I have fortified myself by counsel's opinion, but that is only a guide, and not a refuge. Competing bodies of debenture-holders declare for priority, but leave the liquidator to make a move, and probably a mistake.

May a liquidator, under the circumstances, apply to the Court in some inexpensive way to declare officially the order of distribution?

Yours faithfully,

28th June 1906.

ENQUIRER.

[There is no occasion to formally settle the list of contributories, if all shares are fully paid up, and provided there will be no return to contributories. In all cases of doubt the liquidator should apply to the Court for directions under Sec. 138 of the Companies Act, 1862.—ED. *Acct.*]

The Nottingham Chartered Accountants Students' Society.

THE fourth annual general meeting of the Society was held at Crowshaw's Café, Angel Row, Nottingham, on Friday, 15th June 1906, at 7 p.m. The President (Mr. W. Gath, A.C.A.) was in the chair, and there were present twenty-one members. The Secretary read the notice convening the meeting, and letters of apology from Mr. W. R. Hamilton, F.C.A., and Mr. T. G. Mellors, F.C.A., for their inability to attend. The following are the

REPORT AND ACCOUNTS.

The Committee have much pleasure in presenting to the members their fourth annual report.

Membership.

At the commencement of the year there were 15 honorary and 35 ordinary members, a total membership of 50; during the year three honorary and seven ordinary members resigned, and 10 honorary and 26 ordinary members were elected, and four ordinary became honorary, the membership now being 26 honorary and 50 ordinary members, a total of 76. This increase is very gratifying.

Syllabus.

Seven meetings were held during the year.

1905.

June 26.—Third Annual General Meeting. Chairman, Mr. W. R. Hamilton, F.C.A., the ex-President. Attendance 10.

Oct. 12.—Annual Dinner and Presentation of Prizes to Messrs. D. S. Cowley and W. J. P. Bennett, in recognition of their success at the examinations under the tuition scheme, held at the Mikado Café. Chairman, Mr. W. Gath, A.C.A., the President of the Society. Attendance 23 members and nine visitors.

„ 17.—Mock Shareholders' Meeting.

Officers:—

Lord Smothemdown, C. J. Pain, A.C.A.

Wriggle Wideawake, Esq., E. H. Palmer, A.C.A.

A. Cypher-Blank, C. F. N. Gibbons.

Sir Timorous Trustful, F. G. Grahame.

O. Gelatinous Pliable, W. A. Donnithorne.

Transfer, Tickem & Co., P. H. Johnson (Birmingham) and P. F. Atkin, A.C.A.

Attendance 35.

Nov. 15.—Mock Shareholders' Meeting at Winchester House, Leicester, with the Leicester Chartered Accountants Students' Society. The board was provided by the Leicester Society, and ten members of the Nottingham Society were present as shareholders.

Dec. 1.—Lecture: "The Utility and Interest of Statistics to Accountants, together with some Experiences," (Mr. T. A. Welton, F.C.A., London), and presentation to Mr. Percy F. Atkin, A.C.A., of Third Certificate of Merit gained at his Final Examination in May 1905 on behalf of the Institute, and timepiece on behalf of the Nottingham Society of Chartered Accountants. Chairman, Mr. W. Gath, A.C.A. The members of the Nottingham Society of Chartered Accountants were present by invitation of the Students' Society, and the senior Society in return invited the students to tea before the lecture. Attendance 50.

1906.

Feb. 16.—Lecture: "Income-tax, with special reference to the Report of the Income-tax Committee."
Mr. Charles Comins, F.C.A. (London). Chairman, Mr. Walter Gath, A.C.A., and later Mr. J. Keetley, A.C.A. Attendance 23.

Mar. 9.—Lecture: "The Criticism of Accounts."
Mr. W. R. Hamilton, F.C.A. Chairman,
Mr. C. J. Pain, A.C.A. Attendance 30.

The attendance at each meeting, including the annual dinner, has averaged 27, which, although better than last year, yet leaves room for considerable improvement.

Examinations.

The following members of the Society have passed the Examinations of the Institute during the year:—

Intermediate, May 1905.

W. J. P. Bennett.

C. F. N. Gibbons.

Final, May 1905.

P. F. Atkin (3rd Certificate of Merit).

Final, November 1905.

F. H. Blore.

D. S. Cowley.

S. Danby.

H. R. Gillespie.

The Union of Chartered Accountant Student Societies.

Several meetings of the Working Union have been held during the year, and its work appears to be of great use to the Students' Societies. The success of the mock shareholders' meetings was due to the excellent set of accounts which was issued by the Working Union. Mr. C. J. Pain, A.C.A., was the Society's representative on the Council of the Working Union for the year 1905-6. Mr. E. H. Palmer, A.C.A., has been appointed the Society's representative for 1906-7.

Transactions for 1905.

The Society's Transactions are on sale by the Secretary at 2s. 6d. per volume. This compilation is on the same lines as last year, and contains over 500 pages, and lectures delivered to the London, Nottingham, Hull, Northern, and Leicester Chartered Accountants Students' Societies, and will be found of great benefit to students as well as qualified members.

Evening Classes.

These classes have now been working for two years, and the work they are doing has been of great use to those members of the Society who have had to undergo examination during the year, as is shown by the successes.

The senior Society has made a grant of ten guineas to the Students' Society for expenditure on the Library.

Library.

The free access of the members to the books contained in the Library appears to have been abused. Your Committee are engaged in formulating a new scheme for its working.

The Hon. Librarian reports as follows:—

Thirty books have been added to the Library during the year, including six "Telephones" and six volumes of Transactions.

The number of books taken out during the year was 107, as compared with 146 last year.

The following books are missing:—

No. 13. "Executorship Law and Accounts" (Ranking).

„ 16. "Students' Guide to Executorship" (Carter).

„ 64. "Executorship Law and Accounts" (Ranking).

„ 57. "Auditors" (Pixley).

„ 93. "Income-tax" (Pratt).

„ 19. "Rights and Duties" (Ranking).

„ 88. "Summary of Company Law" (Smith).

„ 5. "Executorship Law and Accounts" (Ranking).

The loss to the Library of these books is a heavy one, and, as the financial resources of the Committee are strictly limited, it is hoped that every member will make a thorough search with a view to their discovery.

Committee and Officers.

There being a vacancy on the Committee, in accordance with the rules of the Society Mr. W. A. Donnithorne was co-opted.

In accordance with the rules of the Society the whole of its officers retire, and the Committee, consisting of Messrs. C. J. Pain, A.C.A., E. H. Palmer, A.C.A., W. A. Donnithorne, W. J. P. Bennett, F. B. Sharp, H. G. Howitt and C. F. N. Gibbons retire, and, with the exception of Mr. E. H. Palmer, A.C.A., are eligible for re-election.

The Auditor, Mr. A. E. Roe, A.C.A., retires, and is eligible for re-election.

The rules require two Auditors, and the Committee suggest Mr. L. A. Reddall as the second Auditor.

The Hon. Treasurer, Mr. A. J. Hayward, A.C.A., and the Hon. Librarian, Mr. F. G. Grahame, also retire, and are eligible for re-election.

The Hon. Secretary, Mr. P. F. Atkin, A.C.A., retires, and, being no longer a student member of the Society, does not offer himself for re-election.

Accounts.

The accounts for the year ended 31st March 1906 have been duly audited by the Society's Auditor, and show a deficiency of £7 6s. 2d. on the year's working.

Proposed Debating Club.

It has been suggested that meetings be held monthly during the summer to debate on various subjects not necessarily connected with accountancy, with the object of

accustoming the members to public speaking. After the conclusion of the annual meeting it is requested that all who take an interest in the matter will remain and discuss it.

General.

This has been the first year with the reduced subscription, and, notwithstanding one or two donations that have been received, the expenditure for the year has exceeded the income by £7 6s. 2d. It is hoped that the Nottingham Society of Chartered Accountants will provide for the maintenance of the Library by making grants out of any surplus there may be on the Tuition Classes, and thus assist in keeping the expenditure within the income in future years.

CHARLES J. PAIN,
Chairman.

PERCY F. ATKIN,
Hon. Secretary.

INCOME AND EXPENDITURE ACCOUNT for the Year ended March 31st 1906.

	£	s	d		£	s	d
To Printing and Stationery	2	12	5	By Subscriptions:—			
• Sundry Expenses	1	8	0	24 Honorary and 43 Ordinary	9	7	6
• Postages	0	13	1	• Balance, being excess of Expenditure over Income	7	6	2
• Loss on Dinner	3	13	1				
• Working Union Levy	1	5	0				
• Prizes to Students, less Donation	1	5	6				
• Entertaining Visiting Students' Societies	2	8	10				
• Proportion of Library written off 25% of cost	3	7	9				
	£16	13	8		£16	13	8

BALANCE SHEET, March 31st 1906.

Liabilities.	£	s	d	Assets.	£	s	d
Sundry Creditors	2	1	10	Library as per last Account	£6	1	0
Grant from Nottingham Society of Chartered Accountants to be expended on Library	10	10	0	Less Amount written off 25% on Cost	3	7	9
Income and Expenditure Account:—				Cash at Bankers	20	15	5
Balance as per last Account	£28	6	0	Subscriptions Outstanding	10	3	0
Deduct Balance as per Income and Expenditure Account	7	6	2				
	20	19	10				
	£33	11	8		£33	11	8

AUDITOR'S CERTIFICATE.

I have examined the foregoing Accounts with the Books and Vouchers of the Nottingham Chartered Accountants Students' Society, and certify the same to be in accordance therewith.

Dated this 14th day of June 1906.

(Signed) ALFRED E. ROE, *Honorary Auditor.*

Mr. W. Gath, A.C.A., moved the adoption of the report in a short speech, in which he reviewed the working of the Society for the past year.

Mr. C. J. Pain, A.C.A., Chairman of the Committee, seconded.

The adoption of the accounts was proposed by Mr. A. J. Hayward, A.C.A., and seconded by Mr. A. E. Roe, A.C.A.

The following officers were elected for the ensuing year:—President, Mr. T. G. Mellors, F.C.A. Vice-

Presidents, Mr. W. Gath, A.C.A., Mr. Wm. R. Hamilton, F.C.A., Mr. A. Durose, F.C.A., Mr. J. N. Derbyshire, F.C.A. Hon. Treasurer, Mr. A. J. Hayward, A.C.A. Hon. Secretary, Mr. H. G. Howitt. Hon. Librarian, Mr. F. G. Grahame. Hon. Auditors, Mr. J. L. Milligan and Mr. A. F. Heynes.

The following were elected members of the Committee:—Messrs. C. J. Pain, A.C.A., S. Danby, A.C.A., W. J. P. Bennett, W. A. Donnithorne, C. F. N. Gibbons, C. J. Suffolk, J. Finn.

A vote of thanks was passed to Mr. Gath for the services he had rendered to the Society as President for the past year.

Mr. S. H. Pearson, A.C.A., proposed, and Mr. A. J. Hayward, A.C.A., seconded, that a vote of thanks be passed to Mr. Atkin for the way in which he had filled the post of Hon. Secretary of the Society.

A vote of thanks was also passed to Messrs. Mellors, Basden & Mellors for the use of their board-room for meetings of the Society during the year, and with this the meeting terminated.

Afterwards a short discussion was held amongst the members as to the advisability of forming a Debating Club for the purposes mentioned in the report, and a Sub-Committee was appointed to find out the general feeling of the students on this matter.

Obituary.

John Hudson Smith, F.C.A.

We regret to announce the death of Mr. John Hudson Smith (of the firm of Hudson Smith, Briggs & Co., Chartered Accountants), by which accountancy in the West of England has sustained a great loss, and the city of Bristol has lost one of its most familiar figures. Mr. Hudson Smith was born in the year 1830, and during the whole of his business life had been in the accountancy profession. During his long career he had as partners Messrs. Wm. Hole Williams, W. A. Sennington, G. White, E. P. Collins, C. J. Ryland, A. J. E. Williams, Wm. Briggs, and Clare Smith, the two last-named being the present partners in the firm, which has occupied the same offices at the Exchange, Bristol, for just fifty years. Mr. Hudson Smith served for twenty-two years on the Council of the Institute of Chartered Accountants, and was the first President of the Bristol Society of Chartered Accountants. He was Chairman of the Bristol and West of England Building Society, Deputy-Chairman of the Gloucester Railway Carriage and Wagon Co., Lim., and a director of the Rhymney Railway, the Lewis Merthyr Consolidated Collieries, and several local companies. Mr. Hudson Smith was a strong Unionist in politics, and a supporter of Mr. Chamberlain, but he had never taken an active part in the management of city affairs. Music possessed great charm for him, and during a long term of years he was connected with the Bristol Orpheus Glee Society, and when he could no longer appear as one of the choir he was elected an honorary member. He was on the councils or governing bodies of several of the philanthropic and benevolent institutions for which Bristol has always been famous. He was greatly interested in archæological and antiquarian researches, and up to within the last few years

was a regular attendant at the meetings of these societies. He was a bachelor, and died on the 27th June at his residence, Brendon House, Clifton, Bristol, at the age of seventy-six.

The funeral took place on the 30th ult. at Arno's Vale Cemetery. The chief mourners were Mr. and Mrs. Nathaniel Smith (brother and sister-in-law), Mr. Frank Smith (nephew), Miss Smith, Miss Dorothy Smith, and Miss Maggie Smith (nieces), Mr. G. C. Lawrence, Mr. Harford Jones, Mr. Clare Smith (Messrs. Hudson Smith & Briggs), Messrs. W. S. Capper, W. F. Lawrence, G. H. Oatley, J. Parrish, and F. J. Winslade (deacons of Clifton Down Congregational Church), Mr. Herbert Baker, Mr. Roland Baker, the servants from Brendon House, and Dr. Dacre. Amongst others who joined the *cortège* were the High Sheriff (Mr. H. L. Riseley), Mr. A. N. Price, Mr. Arthur H. Riseley (representing the Colston Hall Company). Carriages were sent by Mrs. T. Baker, Mr. Hubert Baker, Mr. F. A. Jenkins, Mr. Henry Daniel, and Dr. Dacre.

The Bristol and South Wales Permanent Building Society, of which deceased was Chairman for some years, was represented by Mr. J. H. Woodward (Vice-Chairman), Messrs. W. W. Hughes and F. N. Tribe (directors), and Alderman C. J. Lowe (Secretary), Mr. W. H. James (representing Sir W. T. Lewis, of the Lewis, Merthyr Colliery Company), Mr. Charles Miller, Mr. A. S. Cavell (Alexander, Daniel & Co.). Redland Park Church was represented by its pastor (the Rev. A. Furner), Mr. D. Jenkins and Mr. J. H. Watling, while Mr. F. N. Colborne was present on behalf of the Broad Plain Mission. The Bristol Royal Orpheus Glee Society was represented by Mr. T. H. Pole (Chairman), Mr. A. H. Insall (Hon. Treasurer), and Mr. J. F. W. Tratman (Hon. Secretary). Other associations and institutions were represented as follows:—Bristol Madrigal Society, Mr. Henry Daniel (President), Mr. D. W. Rootham (Hon. Director), and Mr. Roberts (Hon. Secretary); Bristol North Liberal Unionists, Alderman J. W. Hall; National Benevolent Institution, Mr. F. P. Jenkins; Gloucester Wagon Co., Messrs. J. A. Matthews and H. Simpson; Bristol Society of Chartered Accountants, Messrs. F. A. Jenkins and F. D. Baber. Amongst others present at the church were Alderman C. Townsend, Major Rumsey, the Revs. G. H. Brown and G. H. Humphreys, Messrs. R. Hall Warren, W. V. Lawrence, J. M. Harris, C. Desprez, D. Jenkins, J. Herbert, C. Morgan, H. Leonard, A. G. Austin, A. McArthur, S. Shirley, H. C. Trapnell, Jonathan Evans, G. H. Leonard, and G. G. Johnston. The office staff of Messrs. Hudson Smith, Briggs & Co. were represented by Messrs. Bullock, Harper, Bromwich, Holbrook, and Cornwall, and there was also present an old member, Mr. F. L. P. Farbrother.

Chartered Accountants' Masonic Lodge.

THE consecration of the above Lodge took place at the Gaiety Hotel and Restaurant on the evening of Wednesday, the 27th June 1906. Sir Edward Letchworth, F.S.A., Grand Secretary of English Freemasons, was Consecrating Officer, and he performed the ceremony in the impressive manner for which he has long been celebrated.

At the conclusion of the ceremony, he installed as the First Master W. Bro. W. Plender, who appointed the following officers:—

W. Bro. J. W. Woodthorpe	S.W.
W. Bro. Francis W. Pixley, G.D.Eng., P.P.G. Regr., Bucks	J.W.
W. Bro. J. H. Whadcoat, P.G.D., P.S.G.W., West Yorkshire	I.P.M.
W. Bro. H. Woodburn Kirby	Treasurer.
W. Bro. Charles Fox	Secretary.
W. Bro. George Sneath	S.D.
W. Bro. A. H. Gibson	J.D.
W. Bro. Ernest Edmonds	D.C.
Bro. Paul Bevan	Organist
Bro. Arthur Whinney	I.G.
W. Bro. W. H. Fox	Steward.

At the banquet which took place at the conclusion of the ceremony the following guests, many of whom were distinguished members of the order, were present:—General Wimburn Laurie, P.G.M., South Wales, Sir Joseph C. Dimsdale, P.G.W. and P.G.T., Lieut.-Col. Clifford Probyn, P.G.T., Mr. Percival Nairne, P.G.D., Mr. C. Welton, P.G.D., Mr. J. Poultney Griffin, P.G.D., Mr. Robert Grisley Hall, P.G.S.B., Mr. George Cowell, P.G.D., Mr. J. H. Davidson, P.D.G.D.C., Dr. Hy. G. Thompson, P.D.G.Sd.B., Mr. E. M. Morris, P.G.S., Mr. G. Ratcliffe Steel, P.G.S., Mr. F. M. Isaacs, Mr. C. Cooper, Mr. Martin Holman, Mr. Thos. Douglas, Sir Joseph Lawrence, P.P.G.W., Mr. C. S. Alcott, P.P.S.G.D., Mr. J. W. Barratt, P.P.G.S.W., Mr. J. W. Burton, Mr. R. Martin Holland, Mr. Thos. Fraser, Mr. C. E. Dovey, P.P.G.S.W., Mr. S. L. Morse, Mr. Reginald D. Hill, Mr. J. C. Kirk, Mr. J. H. Dallas, Mr. F. M. Spencer Kearn, Mr. W. H. Lock, Dr. Wilfrid Fox, Mr. Charles Oxford, Mr. Percy F. W. Simpson, P.G.S., Mr. W. T. Leivansky, Mr. W. Crewdson, P.G.S., P.P.G.S.D., Mr. Ernest Runtz, Mr. J. Coode Adams, Mr. Worthington Evans.

General Laurie, Provincial Grand Master for South Wales, replied to the toast of "The Grand Officers."

Col. Clifford Probyn and Sir Joseph Lawrence replied for the visitors.

W. Bro. W. Plender, in responding to the toast of "The Worshipful Master," stated that the idea of the formation of the Lodge had originated with Bro. Woodburn Kirby, and that after they had discussed the matter they had arranged a meeting of members of the profession who they knew were made Freemasons, with the result that the Lodge had been formed and that it had made an excellent start, with no less than twenty-three members of the profession as Founders, and that already several names had been proposed at the Lodge that evening for initiation at the next meeting of the Lodge in October.

W. Bro. J. W. Woodthorpe, in returning thanks for the toast to the officers, congratulated the Worshipful Master on being the first to be in the chair of what he felt sure would be a prosperous Lodge, and assured him that he might rely, during his year of office, upon the full support of his officers.

W. Bro. Francis W. Pixley, in reply to the same toast, stated that since the Institute was founded under the Royal Charter, several successful associations consisting exclusively of members of the Institute had been formed, and he was proud that he had been connected with every one of them. Chartered Accountants had not the same opportunity as had the members of the Bar and other professions of meeting in connection with their professional work, and the Chartered Accountants' Dining Club had performed a very useful work in enabling members of the profession to become better acquainted; the Chartered Accountants' Golf Club, whose meeting at Sandwich and Deal unfortunately clashed with this consecration, had also been most successful towards the same end, and he felt sure that the formation of a Chartered Accountants' Lodge would further enable members of the profession to become acquainted who might have no other means of so doing; they were much indebted to W. Bro. Woodburn Kirby for having taken the steps which had had such a satisfactory result as they had just witnessed in Lodge.

W. Bro. Woodburn Kirby, in replying as Treasurer, expressed his great satisfaction at the formation of the Lodge, and he felt that the consecration that evening was ample reward for the labours which he had undertaken.

W. Bro. Charles Fox, in replying as Secretary, said he hoped he possessed the knowledge to perform his duties efficiently. It had been said by Dr. Johnson that there were two kinds of knowledge: there was the knowledge which had been acquired by oneself, and there was the knowledge of where to go to find the knowledge which one had not already acquired. With regard to the second, he should know where to go, as he had an old friend in the Senior Warden, who would supply any information of which he might find himself deficient. He concluded by thanking the Worshipful Master for the compliment in appointing him the first Secretary of the Chartered Accountants' Lodge.

Before the Lodge was closed, the sum of five guineas was voted to the funds of the Chartered Accountants' Benevolent Association.

The Institute of Municipal Treasurers and Accountants (INCORPORATED).

Some Points in the Laying of Rates.

By CHARLES H. BREAR, A.S.A.A.,
Borough Treasurer, Nelson.

A paper read at the Twenty-first Annual Meeting, held at Carlisle, on the 7th and 8th June 1906.

Knowing well that there are few subjects interesting to municipal financial officers which have not already been

dealt with by some of the ablest members of this Institute, I had some misgiving in responding to the invitation of the Executive to prepare a paper for this meeting; and although I fear that I shall be unable to bring this paper up to the standard of those usually listened to by members, I am tempted, nevertheless, to put before you some observations upon a subject which I believe has not been before treated, but which is of the very greatest importance to all local authorities, and particularly to municipal treasurers, and those whose function it is to advise their respective bodies in the laying of rates.

I am hoping that my remarks may lead to discussion, and that some enlightenment may ensue as to the reasons for the adoption by some councils of a policy which in many cases must lead to unwise and illegal practice.

Under the Public Health Act, 1875 (Section 210), the general district rate is to include all expenses properly chargeable to the district fund which are to be incurred during the period for which the rate is laid, and which have been incurred during a period of six months prior to the date of the rate, and which such fund is insufficient to meet.

The provisions of the Municipal Corporations Act, 1882 (Section 144), relating to the borough rate are different, in that they allow the rate to include expenses "which have come in course of payment" at any time within six months before the making of the rate.

The first step, therefore, in the preparation of the rate is to ascertain the position of the fund, and if it is found that there is a shortage in the fund, this shortage is to be immediately provided for in the rate. On the other hand, any available balance in the fund may be taken to reduce the total of the amount to be raised.

The question now before us centres in the interpretation to be put on the term "available balance," and this has given rise to the adoption of two distinct bases of rate laying, which I may call respectively the Cash Basis and the Surplus Basis.

In the laying of the rates of those councils where the cash basis is adopted, the bank balance is first ascertained, and if it is found that there is a sum owing to the bank this item is immediately charged in the new rate, notwithstanding that there may be a considerable revenue surplus to the credit of the fund. This policy not only keeps up the requirements of the fund in that it provides for an adequate working surplus, but to a large extent it secures immunity to a council under local government audit against surcharge by the district auditor for bank interest on overdraft.

The income and expenditure method of account-keeping (as distinct from receipts and payments) is, I am afraid, indirectly responsible for the unsatisfactory policy adopted in some towns where the surplus basis of rate laying is in force, and where there would appear to be the impression that the surplus itself should form the root of the rate.

In such towns it will be conceded that there is an object achieved by the adoption of the income and expenditure method apart from the legitimate one that the accounts should be scientifically kept—that is, that in those towns they may be enabled to keep down the rates by an increasing overdraft at the bank.

By the inclusion in the expenditure of a Council of all known liabilities, a greater charge is put upon the rates than would otherwise be, and the money thus provided not only obviates an overdraft, but provides a cash balance. On the other hand, it follows that the inclusion of accrued assets must work in a contrary manner, and when it is realised that with very many corporations the accrued assets much exceed the incurred liabilities, it is obvious that where such authorities utilise their surpluses, they use more than is represented by cash, and the result is bank overdraft.

The following examples will show what effect may be expected on the bank balances by the laying of rates on, 1st, the estimated net payments for the year; and, 2nd, the estimated net payments plus liabilities incurred; and 3rd, the estimated net payments plus liabilities incurred and minus assets accrued.

	Amount or Rate laid	Result after the Rate is collected
EXAMPLE 1.	£	£
Net estimated payments 20,000	20,000	Bank Balance Nil
EXAMPLE 2.		
Net estimated payments 20,000		
Add Sundry Creditors 2,000		
	£22,000	22,000 In Bank 2,000
EXAMPLE 3.		
Net estimated payments 20,000		
Add Sundry Creditors 2,000		
	£22,000	
Less Sundry Debtors ..	£5,000	
Stock on hand ..	7,000	
	12,000	
	£10,000	10,000 Owing to Bank 10,000

It will be observed that Example No. 3 necessitates an overdraft of £10,000, and a Balance Sheet based on these figures would disclose liabilities £12,000, assets £12,000, and revenue surplus nil. Whereas if £20,000 had been provided for in the rate, there would have been no overdraft, and a Balance Sheet would show liabilities £2,000, assets £12,000, and revenue surplus £10,000.

I suggest that this latter position, in which the revenue surplus would correspond to a company's working capital, is the proper economic condition to be aimed at; and although it might appear from the foregoing that I am advocating the principle of receipts and payments, I should like here to state that this is not my intention, and that a similar result could be arrived at by working to income and expenditure, and making an independent and additional provision for any actual or estimated overdraft.

In the formation of a limited company, care would be taken to provide sufficient money to cover both fixed and floating capital. In the case of corporations, the fixed capital is obtained by borrowing powers, and floating capital is to be provided out of the rates; but this cannot be done (where the floating assets exceed the liabilities), if all excess of income over expenditure is paid away in relief of rates.

The local Acts of municipal corporations relating to trading undertakings have generally incorporated with them in varying extent such Acts as the Gasworks Clauses Act, the Electric Lighting Acts, and the Tramways Act; and in most cases no power is given for the accumulation of profits in such undertakings to anything like the extent necessary to provide a working balance, and the profits beyond certain limits are to be carried into the general district or borough fund.

From this I think we should gather that in arriving at the available balance in the fund, consideration should be taken of the position of the whole of the contributory departments. The whole of the surpluses should be focussed in one sum, and so should the revenue bank balances be similarly gathered together.

I am acquainted with the affairs of a certain authority where the whole of the profits of the various undertakings are year by year carried into a Rating Account, and where it is considered that so long as there remains in the fund any excess of revenue assets over liabilities, an overdraft at the bank is of no material consequence; and I am sure that the existence of some considerable revenue surplus in the Balance Sheet of that body is responsible for the impression obtaining amongst the members that it can be at any time drawn upon so as to obviate an increase of rates.

I propose to show from the following accounts what the relative positions of Council No. 1 working on the cash basis, and Council No. 2 on the surplus basis, would be at a given time, the Profit and Loss Account being common to both councils.

Dr.	PROFIT AND LOSS ACCOUNT.	Cr.	
	£	£	
Payments	20,000	Receipts	17,500
Add Amounts owing to Creditors at the end of the year ..	1,800	Add Amounts due from Sundry Debtors at the end of the year ..	2,300
Stock on hand at the beginning of the year.. ..	25,000		£19,800
	<u>26,800</u>		
	£46,800		
Deduct Amount owing to Sundry Creditors at the beginning of the year	2,000	Deduct Amount due from Sundry Debtors at the beginning of the year ..	2,100
Stock on hand at the end of the year	30,000		
	<u>32,000</u>		
Expenditure	14,800	Income	17,700
Income in excess of expenditure during the year	2,900		
	<u>£17,700</u>		<u>£17,700</u>

Mem.:—Payments in excess of Receipts during the year, £2,500.

Dr.	CASH ACCOUNT.	Cr.	
<i>(Council No. 1 Cash Basis.)</i>			
	£	£	
In Bank at beginning of the year	500	Payments during the year	20,000
Receipts during the year	17,500		
Balance owing to Bank at the end of the year	2,000		
	<u>£20,000</u>		<u>£20,000</u>

(Council No. 2 Surplus Basis.)

	£		£
Receipts during the year ..	17,500	Owing to Bank at the beginning of the year ..	24,600
Balance owing to Bank at the end of the year ..	27,100	Payments during the year ..	20,000
	<u>£44,600</u>		<u>£44,600</u>

BALANCE SHEET.			
	(Council No. 1 Cash Basis.)		
	Liabilities		Assets
	£		£
Sundry Creditors	1,800	Sundry Debtors	2,300
Owing to Bank (see Cash Account)	2,000	Stock	30,000
Surplus:—			
At beginning of year ..	25,600		
During the year (see Profit and Loss Account)	2,900		
	<u>28,500</u>		
	<u>£32,300</u>		<u>£32,300</u>

(Council No. 2 Surplus Basis.)

Liabilities		Assets	
Sundry Creditors	£ 1,500	Sundry Debtors	£ 2,300
Owing to Bank (see Cash Account)	27,100	Stock	30,000
Surplus :-	£		
At beginning of year	500		
During the year (see Profit and Loss Account)	2,900		
	<u>3,400</u>		
	<u>£32,300</u>		<u>£32,300</u>

It will be observed from the Profit and Loss Account that although the payments during the year have exceeded the receipts by £2,500, the income has exceeded the expenditure by £2,900, and following the accounts into the Balance Sheet, always bearing in mind the distinctive policies of the two councils, we find that Council No. 1 has accumulated a working surplus of £28,500, insufficient only to the extent of £2,000, which will be provided for in the next rate.

Council No. 2 has a surplus (certainly not a working surplus) of £3,400, and if the rates are high, this will probably be regarded as a "God-send" wherewith to reduce them, and it may be assumed that the Council would feel no compunction in asking the bank to increase their loan of £27,100 to £30,500, so as to enable them to continue the carrying on of their undertakings.

I do not suggest, of course, that any authority is exactly in the position of Council No. 2, but merely state these figures to illustrate the tendency of the system, and to draw attention to the possible ultimate result in the event of a rigid adherence to what I have termed the surplus basis of rate laying.

It may be interesting, however, to further examine the position of Council No. 2.

The Council being in business with insufficient capital is cumbered with the difficulties of arranging terms with its bankers; the overdraft which is required is permanent and increasing, and there is the necessity for a perpetual levy on the rates to meet bank interest.

The legal position, however, presents the most serious aspect. It will be recognised that as bank interest is an illegal payment, it could be objected to as part of the rate, but what about the overdraft itself? It will be clear that the whole of it had been occasioned by payments made to meet expenditure incurred during a period prior to six months before the laying of the rate, and consequently no part of it could be included in any subsequent rate, without the danger (on the intervention of a ratepayer) of the rate being declared bad.

I am able in this connection to quote the judgment of Mr. Justice Farwell, in a case recently before the Courts, which will show the seriousness of the position, and we may gather that those rating authorities who may be proceeding upon lines in any way similar to those adopted by Council No. 2, may be called upon to face difficulties which may prove really disastrous.

The case *Attorney-General v. De Winton* was heard on the 7th April of this year, in the High Court of Justice (Chancery Division), before Mr. Justice Farwell, and was brought at the relation of a burgess and councillor of the borough of Tenby against the Treasurer of the borough to impeach the Treasurer's accounts so far as they related to payments for interest on overdrafts with which the Treasurer had credited himself and debited the borough funds.

The Town Council appeared to be in the habit of over-drawing the Borough Fund Account, and also various other accounts under the Public Health and other Acts, and the defendant had charged interest to the Town Council.

The Attorney-General claimed (1) a declaration that these payments of interest were illegal and to the knowledge of the Treasurer beyond the powers of the Corporation, and a breach of trust; and (2) an injunction restraining the Treasurer from crediting himself with any further sums out of the Council's moneys.

The learned Judge, in giving judgment in accordance with the application, with costs against the defendant, said:—

"It is plain that this Court would have jurisdiction to restrain the borough from misapplying these funds on the ground of breach of trust. The defendant is the Council's Treasurer, he knows that the moneys with which he has credited himself are trust moneys, and *he cannot escape by pleading the wrongful orders of his employers. The Treasurer is not a mere servant of the Council, he owes a duty and stands in a fiduciary relation to the burgesses as a body.*"

An objection had been raised to the Attorney-General's application inasmuch as the Municipal Corporations Act, 1882 (Section 141), had provided a means of testing the legality of orders of town councils directing payments by removing such orders into the King's Bench Division of the High Court by writ of *certiorari*, but on this point the Court held that the provision did not exclude other remedies, and particularly the right to obtain an injunction restraining illegal expenditure.

Some reference was made during the hearing of this case to the case of *Smith v. Southampton Corporation*, of May

1902, and it may be well to briefly recall the circumstances.

An objection was raised by a ratepayer to certain items which were included in the estimates for general district rate. He contended that the rate was bad because it included provision for payment of debts which had become payable more than six months before the rate was made.

It appeared that it had been the practice to carry over losses on Revenue Account to a Suspense Account, and the Suspense Account was by resolution of the Council to be cleared by sums of one-fifth over a period of five years.

The corporation showed that the tradesmen to whom the debts were due in the first instance had been paid by cheque on the corporation's bankers, and argued that the disputed items were covered by a current overdraft at the bank, which, being balanced every day, was not a charge incurred more than six months before the making of the rate. The corporation contended also that the estimate of the rate was not admissible evidence of the purpose to which it was intended the rate should be put, and that as the estimated income for the current year apart from the rate would more than cover the items in dispute, it could not be shown that it was intended to apply the rate to the payment of these items.

The Recorder of Southampton, before whom the case was first heard, held that the rate was bad, and on appeal to the King's Bench Division, this judgment was upheld.

In the course of his remarks, Mr. Justice Channel said :—

"The objection means that any particular ratepayer is entitled to say, '*you are charging me with a sum that ought to have been charged upon and paid by ratepayers in previous years,*' and to that extent it is a meritorious objection."

And further :—

"Mr. Macmorran's argument seems to me to come to this, that the effect of that six months' clause is that the corporation may always have a floating debt arising from past expenditure, provided that debt does not exceed six months' income, because if it does, they can always by an adjustment of the accounts and borrowing money from the bankers say it has occurred in the last six months. I think that it is not a matter of appropriation of accounts at all, it is a matter of substance, and looking at the resolution that was passed, it is perfectly clear that the corporation has been exceeding its borrowing powers, that in fact it has got into debt, and has got this sort of floating debt.

"I see, looking at the judgment of the learned Recorder, which is part of the case, he says they have secured the services of an accountant who has drawn their attention to it, and they have been making an effort to clear it off by charging so much to each year until they got the matter straight. I think that, however laudable it may have been for them to do that, in point of fact *the way in which they have done it is clearly to charge upon the present ratepayers expenditure which really was incurred in past times long more than six months before the making of the rate.*"

To what extent corporations may be affected by the decision in the Tenby case, one can only conjecture, but it is reasonable to assume that from the publicity given to it, and from the criticisms which are being made in financial and other newspapers, suspicion may be aroused, and that the banks (particularly those whose managers are in the position of Treasurer) will institute a very strict examination into the finances of those bodies with whom they may be concerned.

This is, of course, as it should be, but it is to be feared that a much greater difficulty will be experienced in the arrangements of terms and conditions with banks generally.

Taking the judgments together in relation to both funds, it is clear that bank interest on Revenue Accounts is not under any circumstances payable; and as to the overdraft, where such overdraft occurs in the Revenue Account of a district fund, and is occasioned by payments in past years, there does not appear to be any ordinary legal means of getting straight. Any inclusion in an estimate of a sum to pay off a portion of the overdraft would be *ultra vires*, and the rate could be quashed.

It would appear, therefore, that the only straightforward course would be to seek powers under a Bill on somewhat similar lines to the Education (Provision of Working Balances) Act, to be allowed to pay off the overdraft by instalments; but this would very probably lead to the imposition of local government audit.

Possibly the best means of gauging the position would be to consider what action would be taken by a district auditor under certain conditions.

Assuming that a Council estimated the requirements for a general district rate at £30,000, and levied a rate accordingly, but expended £40,000, the auditor could proceed against the Treasurer in respect of the overdraft occasioned by every payment up to the additional £10,000. As a matter of fact, he would not do this, but would give directions for the whole of the £10,000 to be included in the next rate. This would be quite in order, as it might

be presumed that the items which made up the amount had become due for payment during the last six months.

In preparing the next year's rate, however, it may be found that the inclusion of the £10,000 would necessitate a larger rate than the council is prepared to lay, and if it is decided to provide for only £3,000, there would be at the end of the next year £7,000 owing to banker. In this case the auditor would surcharge the council with the £7,000, as, seeing that the whole of it was a balance due to expenses incurred over a year ago, it could not now be included in an estimate, and the action of the auditor would be imperative, so as to safeguard himself as between a ratepayer and the High Court.

In regard to the borough fund it would seem that similar conditions would apply, in that the original payments making up the £7,000 had already "come in course of payment"; and they could not be brought in again by drawing upon a new account at the bank within six months of the making of a rate to pay off the overdraft on the old one.

From these points, and from the fact that the Treasurer of a borough may be held personally responsible for an overdraft, we shall be inclined, I think, to take a lesson, and it will behove us to watch carefully our finances, and bring forcibly to the notice of our respective councils any tendency in policy or procedure which might lead us into a position of insecurity and disrepute.

Personal.

MR. A. DANGERFIELD, F.C.A., of 56 Cannon Street, London, E.C., announces that he has taken into partnership Mr. F. S. COPPACK, A.C.A., and Mr. E. DOBELL, A.C.A., who have for many years been associated with him in business. The style of the firm will remain unaltered.

MESSRS. PROCTOR, Chartered Accountants, of 3 Grimshaw Street, Burnley, announce that they have taken into partnership Mr. EDWARD WOOD, Chartered Accountant, who has been with them for the last fifteen years. The firm will continue to practise under the same name as hitherto.

THE partnership between CHARLES COX SMITH and CHARLES RICHARDS, carrying on business as Chartered Accountants, under the style or firm of C. C. SMITH & RICHARDS, at Cobden Chambers, Corporation Street, in the city of Birmingham, has been dissolved by mutual consent. Mr. RICHARDS will carry on business for the present at the

same address as above, under the style or firm of CHAS. RICHARDS & CO.

Meetings for the ensuing Week.

Tuesday—INSTITUTE OF CHARTERED ACCOUNTANTS.—Examination Committee, at 2 p.m.

Wednesday—INSTITUTE OF CHARTERED ACCOUNTANTS.—Finance Committee, at 12.30 p.m.; Council Meeting, at 2 p.m.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, June 29th, was 150, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 79; Deeds of Arrangement registered, 71. The respective numbers in the corresponding week of last year were: Bankruptcies, 90; Deeds of Arrangement, 54—total, 144; being an increase of 6. The total number of commercial failures recorded during the 26 weeks of the present year is 4,320; the total number recorded in the corresponding 26 weeks of last year was 4,576, showing a decrease of 256.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, June 29th, was 134. The number in the corresponding week of last year was 134 also, showing no alteration. The total number filed during the 26 weeks of the present year is 3,873; the total number filed in the corresponding 26 weeks of last year was 4,286, showing a decrease of 413.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, June 29th, amounted to £2,399,790, by way of addition to £1,629,284, previously issued by the same

companies. The amount registered in the corresponding week of last year was £1,889,086, showing an increase of £510,704. The total amount registered during the 26 weeks of the present year was £43,221,606 (in addition to the issues in previous years by the same companies), as compared with £38,910,728 for the corresponding 26 weeks in 1905, showing an increase of £4,310,878.

The Profession in Scotland.

Obituary.

The death took place at Honolulu, on the 23rd ult., of Mr. John Burnett Walker, C.A., second son of the late Captain William Walker, Woodville Place, Maryfield, Dundee. The deceased, who was lately with Messrs. Mackay, Irons & Co., C.A., Dundee, had only just arrived in the Sandwich Islands to take up an appointment, and he succumbed, it is understood, to an attack of dysentery. He was only twenty-eight years of age.

Personal.

Mr. William Annan, C.A., has begun the practice of his profession at No. 6A George Street, Edinburgh.

Mr. J. Rowan Thomson, C.A., has removed from 214 to 154 High Street, Kirkcaldy.

Edinburgh Chartered Accountants Students' Society.

The annual general meeting of this Society was held at 27 Queen Street, Edinburgh, on the 21st June, when there was a small attendance. The report by the Committee and the accounts were unanimously adopted. The following were elected office-bearers for session 1906-7:—Hon. President, Mr. J. A. Robertson-Durham; Hon. Vice-Presidents, Messrs. C. E. W. Macpherson, R. C. Millar, James Walker, and John Hamilton; Presidents, Messrs. J. Shiels Alexander, P. A. Guthrie, and C. Maitland Smith; Secretary, Mr. Alexander Clapperton; Treasurer, Mr. F. A. Ross; Auditor, Mr. F. Tod. Four new members of the Committee were elected in room of

the four senior members who retired. The prizes offered to apprentices by the Council of the Society of Accountants in Edinburgh for the best essay on "Vouching and Instructing (1) Cash Transactions of Commercial Limited Liability Companies; (2) Testamentary Trust Accounts," have been won by the following gentlemen:—(1) Mr. Turner McLauchlin, 6 North St. David Street, Edinburgh; (2) Mr. J. Leonard Apedaile, 21 Rutland Street, Edinburgh; Mr. H. Donaldson, 30 York Place, Edinburgh.

General Examining Board of the Scottish Societies.

The results of the recent half-yearly examinations by the General Examining Board of the Scottish Societies have become available. Of 82 candidates for the Preliminary Examination, 49 passed and 33 failed. Of 61 candidates for the Intermediate Examination, 50 passed and 11 failed. Of 67 candidates for the Final Examination, 21 passed the whole examination, 24 passed in the first division, one in the second division, and 21 failed.

The following are the candidates who were successful in passing the Preliminary Examination:—William Alexander Allan, 59 Leamington Terrace, Edinburgh; William James Anderson, 6 North St. David Street, Edinburgh; Alexander William Angus, 82 Craiglea Drive, Edinburgh; James Baxter, 9 Midmills Road, Inverness; Ninian Stewart Brown (Dunn & Todd), 166 Buchanan Street, Glasgow; Percy Brown, 4 Rickie Terrace, Bangor, County Down, Ireland; William Brown, 12 James Street, Greenhead, Glasgow; William Thomas Burrows (James Sneddon), 78 Quarry Street, Hamilton; Robert Clark (Mrs. Noble), 335 Great Western Road, Glasgow; James Bryce Clarke (Brown, Fleming & Murray), 175 West George Street, Glasgow; Arthur Charles Combe, Loretto, Musselburgh; John Cowan (Thomson & Boyd), 65 Renfield Street, Glasgow; John Caird Cownie, 3 Calton Terrace, Aberdeen; John Henry Crawford (Allan & Clapperton), 2 Church Place, Greenock; Samuel Gordon Crimes, Dungey, Hawkhead Road, Paisley; Robert Cocks Cunningham, Hillside, Broughty Ferry; Arthur Aitken Davidson, 43 Fonthill Road, Aberdeen; Cecil Stewart Denham (Davidson, Workman & Gilchrist), 190 West George Street, Glasgow; Donald Dewar (Thomas McLintock & Co.), 149 West George Street, Glasgow; Arthur Dickson, 148 Craiglea Drive, Edinburgh; Ross Munn Dunlop, Denton House, Partickhill, Glasgow; Hugh William Alexander Dunn, 77 Parliament Hill, Hampstead, London, N.W.; John Michael Gillespie (J. B. Wardhaugh),

180 Hope Street, Glasgow; John Hepburn (Smith & Williamson), 142 St. Vincent Street, Glasgow; Stephen Hulme, Junr. (Taylor & Ireland), 55 Bath Street, Glasgow; George Hunter, 10 Wellington Street, Edinburgh; David Gow Kemp, Junr. (Fraser & Fergusson), 232 West George Street, Glasgow; Hubert Victor Kirkpatrick (Findlay, Kidston & Goff), 102 Hope Street, Glasgow; James Laughland (Walter & W. B. Galbraith), 87 St. Vincent Street, Glasgow; Alexander McCrackan, 47 Princes Street, Perth; Norman McEachen (Alexander Sloan & Co.), 190 West George Street, Glasgow; William Mackenzie, Junr. (Mitchell & Smith), 59 St. Vincent Street, Glasgow; Neil Mackinnon, 31 West Maitland Street, Edinburgh; Duncan McNicol (Mackie & Clark), 124 St. Vincent Street, Glasgow; Charles Henry Masterton, 2 Nairne Place, Dundee; William Armour Millar, 18 St. Andrew Square, Edinburgh; Robert Stephen Milne, Royston, Bridge of Weir; Robert Edward Mitchell (Fraser & Fergusson), 232 West George Street, Glasgow; Pollok Sinclair Nisbet, 13 Northumberland Street, Edinburgh; James Christopher Patterson (Thomas Kelly), 150 Hope Street, Glasgow; Robert Campbell Reid, Scott House, Kinnear Road, Edinburgh; Walter Graham Reynolds (Moore, Carson & Watson), 209 West George Street, Glasgow; Charles Robertson, Castle Campbell Hotel, Dollar; George Nicol Ross, 59 Cotton Street, Aberdeen; George Sievwright (George B. McKean), 141 St. Vincent Street, Glasgow; Sidney Herbert Steven, 7 Ward Road, Dundee; Laurence Wilson Thom (Moore, Carson & Watson), 209 West George Street, Glasgow; Harold Leonard Vallance (Macdonald, Stewart & Stewart), 116 Hope Street, Glasgow; Wallace Jack Watt (Robert Dempster & Brechin), 122 Wellington Street, Glasgow.

The following were held exempt from this examination on production of school-leaving and other equivalent certificates:—Lambert Henderson Bailey (Dunlop & Murray), 188 St. Vincent Street, Glasgow; Robert Stewart Craig (Fraser & Fergusson), 232 West George Street, Glasgow; Robert Scott Cree (McClelland, Ker & Co.), 115 St. Vincent Street, Glasgow; George Herbert McConnell (Moore, Carson & Watson), 209 West George Street, Glasgow; Frank Walter McDowall (George McBean), 141 St. Vincent Street, Glasgow; James Elliot Balfour Melville (Lindsay, Jamieson & Haldane), 24 St. Andrew Square, Edinburgh; Alexander Muir (James H. Parker), 89 West Regent Street, Glasgow; Patrick Moncrieff Murray (Maxton Graham & Sime), 123 George Street, Edinburgh; Allan Rae (G. H. Cauphin), 29 Stafford Street, Edinburgh; John Alexander Robin, 7 Colville Gardens, Bayswater, London, W.; Robert Rogerson (McLay, McAllister & McGibbon), 94 Hope Street, Glasgow; Robert Gordon Simpson (Dewar & Robertson), Alva Street, Edinburgh; Harry William Steele (Moore,

Carson & Watson), 209 West George Street, Glasgow; Charles Stewart (Black, Stewart & Co.), 203 Hope Street, Glasgow; James Reid Young (Hardie & Grieve), 157 St. Vincent Street, Glasgow.

The following were the successful candidates at the Intermediate Examination:—James Alexander (Thomson, Jackson, Gourlay & Taylor), 24 George Square, Glasgow; David Begg (Hardie & Grieve), 157 St. Vincent Street, Glasgow; Gauntlett Henry Blake (Allan & Clapperton), 2 Church Place, Greenock; James Campbell Burton (Moore, Carson & Watson), 209 West George Street, Glasgow; Malcolm Norman Campbell (Smith & Williamson), 142 St. Vincent Street, Glasgow; Alexander Scott Carson (Reid & Mair), 40 St. Vincent Place, Glasgow; James Jenkins Cowan (Gourlay & Deas), 124 St. Vincent Street, Glasgow; Andrew Craig (John Mann & Son), 142 St. Vincent Street, Glasgow; James Miller Craig (Clunie & Scott), 2 St. Andrew Square, Edinburgh; Thomas Johnston Cunningham, 19 Abbotsford Park, Edinburgh; Henry James Barr Dunlop (Brewis & Rainie), 5 North St. David Street, Edinburgh; Robert Simpson Duthie (James Campbell), 163 St. Vincent Street, Glasgow; James Alexander Falconer, Ballinreach, Clachnaharry Road, Inverness; Archibald Ferrie, Junr. (McLay, McAllister & McGibbon), 94 Hope Street, Glasgow; Andrew Cameron Forrest (Walter & W. B. Galbraith), 87 St. Vincent Street, Glasgow; James Gillies (John Gillies), 140 Hope Street, Glasgow; William Gray (Rattray Bros., Alexander & France), 115 St. Vincent Street, Glasgow; William Hugh Haney (Drynan, Fulton & Mitchell), 194 St. Vincent Street, Glasgow; Henry James Ironside, 1 Hope Park Square, Edinburgh; Herbert Rollo Jolly (Watson & Morrison), 16 South Charlotte Street, Edinburgh; Stephen Hall Currie Kerr, Lixmount Villas, East Trinity Road, Edinburgh; William Robert Lindsay (Ernest Jack), 4 Blackfriars Street, Perth; Kenneth McGibbon (Thomson, Jackson, Gourlay & Taylor), 24 George Square, Glasgow; Thomas Mackenzie (McIntyre & Grant), 13 Albert Square, Dundee; William Dow McNaught (Ferguson & Vost), 108 Hope Street, Glasgow; Charles John McNaughten (T. A. Craig), 139 St. Vincent Street, Glasgow; Archibald Macqueen, Junr. (Carswell, Murray & Lauder), 69 St. Vincent Street, Glasgow; Peter Wilson Morrison (Dunlop & Murray), 188 St. Vincent Street, Glasgow; Henry Heys Muir (Alexander Sloan & Co.), 190 West George Street, Glasgow; Patrick Moncrieff Murray, 7 Eton Terrace, Edinburgh; Frank Fairweather Nicoll (McIntyre & Grant), 13 Albert Square, Dundee; Thomas Brown Nicoll (Grahams & Co.), 212 West George Street, Glasgow; Frank Noble, 173 Pollock Street, Glasgow; David Hamilton Fotheringham Orr (D. & A. Cuthbertson, Provan & Strong), 190 West George Street, Glasgow; William Pate (Mackay, Irons & Co.), 13 Albert

Square, Dundee; James Knox Kirkland Paterson (William J. Taylor), 165 Hope Street, Glasgow; John Philp, 58 Caversham Road, Kentish Town, London, N.W.; Robert Bower Ritchie (Carter, Greig & Co.), 5 St. Andrew Square, Edinburgh; Ian Peter Mackintosh Robertson, 69 Merchiston Crescent, Edinburgh; Richard Annand Russell (Marquis & Hall), 222 Union Street, Aberdeen; Thomas Nicholson Scott (Wilson & Nelson), 135 Wellington Street, Glasgow; James Douglas Smith (Wight & Wight), 150 Hope Street, Glasgow; James Geddes Baird Smith (Moore, Carson & Watson), 209 West George Street, Glasgow; William Mackay Sparke (Romanes & Munro), 50 Frederick Street, Edinburgh; John Cairns Tennant (John Wilson & Stirling), 154 St. Vincent Street, Glasgow; William Eilerslie Wallace (Whyte & Williamson), 156 Union Street, Aberdeen; Moses Laird Williamson (Ratray Bros., Alexander & France), 115 St. Vincent Street, Glasgow; Thomas William Winter, Junr., 41 Rylett Road, Shepherd's Bush, London, W.; George Woolley (Carter, Greig & Co.), 5 St. Andrew Square, Edinburgh; Hugh Douglas Young (Reid & Mair), 40 St. Vincent Place, Glasgow.

The following gentlemen have now passed the Final Examination:—William Herbert Anderson (Kerr, Andersons & Macleod), 149 West George Street, Glasgow; Robert John Blackadder (T. H. B. Rorie), 33 Albert Square, Dundee; Robert Charles Brown (Wilson & Johnston), 18 St. Andrew Square, Edinburgh; William Gibson Carmichael (Blaikie & Boyd), 23 Thistle Street, Edinburgh; Gladstone Cherry, Forestville, Renton; John James Addison Fergus, 27 Braid Road, Edinburgh; John Adam Fullarton (Paterson & Benzie), 63 St. Vincent Street, Glasgow; Andrew Prichard Gilmour (Wilson & Nelson), 135 Wellington Street, Glasgow; Kenneth Henderson, 25 Drummond Place, Edinburgh; William Patrick Kelly, 14 Claremount Terrace, Edinburgh; Peter William Kinnaird (Grahams & Co.), 212 West George Street, Glasgow; Cecil Dunn Macindoe (McClelland, Ker & Co.), 115 St. Vincent Street, Glasgow; Noel Livingstone Mackness, St. Mary's Rectory, Broughty Ferry; John McMillan Marshall (Brewis & Rainie), 5 North St. David Street, Edinburgh; Lewis Findlay Robertson (Moody, Stuart & Robertson), 9A Ward Road, Dundee; John Russell (Wallace & Tannock), 145 St. Vincent Street, Glasgow; Walter Sanderson, 4 Kilmaurs Road, Edinburgh; John Speirs (Grahams & Co.), 212 West George

Street, Glasgow; Charles Somerville Turcan, 33 Royal Terrace, Edinburgh.

Bankruptcy Reform in Scotland.

A public meeting of all interested in Scottish bankruptcy reform, convened by the Scottish Bankruptcy Reform Association, was held in the Merchants' Hall, Glasgow, on the 28th ult., "for the purpose of taking into consideration the continued unsatisfactory state of the Scottish bankruptcy law, and to take such steps as might be resolved on to secure early legislation to remedy the defects." Mr. William Jacks, LL.D., presided, and there was a fair attendance.

The Chairman said that, like the rest of them, he was very pleased to see that a Committee had been appointed by the Government to inquire into what alterations were necessary in the bankruptcy law, but he extremely regretted that the reference to that Committee was limited to England and Wales. In a sense this was not to be regretted, because Scotsmen were conceited enough to think that, with all its defects, the Scottish law was better than the English law. Still, there were many defects in it which they would like to see remedied.

Defects and Remedies.

Mr. Walter Johnston (of Samuel Chisholm & Co.), President of the Scottish Wholesale Merchants' Society, said they all knew how inadequate the present Bankruptcy Act was to punish fraudulent debtors. He recollected that fifty years ago bankruptcy had an injurious effect upon a man's social position, by creating a feeling of distrust. Nowadays a man did not abuse his social position by becoming bankrupt, it was so common a thing. They were all aware how many people were really dishonest in act, perhaps not intentionally, but who lived above their income. He held that they were just as much thieves as people who tried to pick their pockets. (Hear, hear.) In the present state of society they were not looked upon in that light. There was, therefore, much need for amendment of the Bankruptcy Act. For instance, as the law stood at present a man might be one year eleven months and thirty days in business and keep no books, and yet he could snap his fingers at anybody; whereas if he was one day longer in business he could be put in prison. That was a very unreasonable and senseless state of matters. The Glasgow wholesale merchants, who were very glad to co-operate with Mr. Rutherford, the Secretary of the Association, in the proposed measure, had experienced difficulty for years in respect to the ease with which

bankrupts got their discharge, and the ease with which trust deeds were manipulated. A man was approached by an accountant and asked to sign a trust deed, and the accountant said he would get it carried through all right. He got possession of the estate, and the chances were that the creditors got a shilling or two, while the accountant got the rest. They did not object to the accountant—there were accountants and accountants—but he maintained that only thoroughly qualified Chartered Accountants should be entrusted with trust deeds, and, further, that they should give security for their intromissions. At the invitation of the Glasgow Wholesale Merchants' Society a large number of candidates at the General Election had promised, if returned, to support the Bill which they desired to see passed. With regard to the Imprisonment for Debt Bill, he remarked that those who were in the habit of going to meetings of creditors must be astonished at the large number of people called "respectable" who were owing shopkeepers very considerable amounts. The shopkeeper had very little chance of recovering his account, because, if the debtor was an artisan, the creditor could arrest only above 20s., and it was a notorious fact that a very considerable number of working men, rather than pay their just and lawful debts, would work a day or two less in the week in order to defraud the shopkeeper. In these days of severe competition—not to speak of that gigantic affair which was carried on under the guise of brotherhood in the name of co-operation, and was crushing a great many out of business—when profits had almost reached the vanishing point, they had a right to see that Acts were passed to protect them. Mr. Johnston concluded by moving the following resolution:—"That the application of the process of *cessio* and the abolition of imprisonment for debt in Scotland have rendered the Scottish bankruptcy laws extremely difficult to administer, and the only satisfactory mode of dealing with the subject is by the repeal of the various existing statutes and the passing of a consolidated measure, with necessary amendments adequate to present requirements."

Mr. W. S. Cochrane, writer, in seconding, said that although the 1856 Bankruptcy Act must have been a very good Act when it was passed, as it had existed up till now, there were a great many anomalies at the present time that must be reformed. The exigencies of trade were now much more severe than they were fifty years ago, and there was a great deal of credit given that was never thought of then. There were many loopholes of escape for fraudulent debtors under the present Act. Procurator-Fiscals ought to be pressed by trustees of bankruptcy estates to take up many cases that they did not touch at present. The traders were practically in the Fiscal's hands. The *Cessio* Acts were simply a sham and a fraud.

It was very difficult to realise an estate under them. Trust deeds required to be greatly remedied. No accountant should be able to take a trust deed from any debtor unless he registered it in the public office within ten days of obtaining it. He agreed with Mr. Johnston on the question of imprisonment for debt, and said that the English law on this point should be applied to Scotland. The landlord's hypothec should be abolished. There was no reason why the landlord should have a preferable claim when nearly the whole effects in the premises were supplied by merchants.

Mr. W. B. Paterson, writer, quite agreed that the Bankruptcy Act should be reformed, but he was not prepared to see *cessio* altogether abolished. The reason why the *Cessio* Act had worked so badly was because it was the most difficult thing in the world to get a Procurator-Fiscal to take up these cases. The time taken in getting up quasi-criminal prosecutions was enormous. It was also difficult to get creditors to come forward. They would require to get a separate officer paid by the Crown, who would have no other duty but to carry out prosecutions in cases of fraud or failure to pay. Bankruptcy examinations, Mr. Paterson proceeded, were a farce. The Sheriff retired from the room because he had other duties to perform, and the trustee sat in one corner and the debtor in another, and it was one of the most delightful conversations that could be imagined. The whole machinery required to be altered.

The resolution was unanimously adopted.

Mr. A. C. Rutherford, Secretary of the Scottish Bankruptcy Reform Association, gave an outline of the work of that body in connection with the question, and afterwards pointed out the main provisions of the "Bill to Consolidate the Law of Bankruptcy in Scotland," which was accorded a first reading in Parliament in 1890, but which had not gone further. He said that the Bill was a great advance upon the present position of affairs, and it struck at the root of some of the most glaring defects in the law. Its principal parts dealt with the restriction of preferences, the separate dealing with small estates, and more strict punishment of fraudulent debtors. It also covered the ground whereby law agents might practise in the Court of Session in bankruptcy matters, which would tend towards economy in working out estates.

Mr. Robert Keddie moved the following resolution:—"That the Bill to Consolidate and Amend the Law of Bankruptcy in Scotland, promoted under the auspices of this Association, and read in the House of Commons in 1890, having been submitted to the close scrutiny of the mercantile and legal community throughout Scotland,

"would, if passed into law with or without further amendment, meet with general approval, accompanied by a short Bill dealing with the question of imprisonment for debt; and that the following be appointed a committee (with power to add) to take such steps as in their judgment may seem best to secure early legislation on the lines of the foregoing resolution, and to report to a subsequent meeting:—Messrs. James T. Tullis, James Allan, W. S. Dobson, Walter Johnston, John Filshill, W. S. Cochrane, Blacklock, James Leggat, Hugh Osborne, and Dr. Jacks."

The resolution was adopted, and the proceedings ended with a vote of thanks to Dr. Jacks for presiding.

Bank Shareholders Fifty Years Ago.

SOME little time ago there was an interesting article in *The Financial News* showing how strong was the tendency for city names to be perpetuated year after year and generation after generation. On a Farringdon Street book-stall the other day I picked up, for the modest sum of two-pence, a copy of the "List of Names of the Proprietors of the Bank of England" for the year 1859, and a glance over its contents recalled forcibly the contention of the article to which I have referred.

It may not be generally known that these lists, though compiled with great care and regularity, are exceedingly difficult to obtain. Theoretically, every holder of Bank stock is entitled to a copy; but in practice many obstacles would be put in the way of anyone who desired to obtain one. He would be interrogated as to the purpose for which he desired the information, and attempts would be made to divert him from his aim. Presumably, less care is taken to avoid publicity after a lapse of fifty years, and no doubt even had the directors been aware that the copy I picked up was being exhibited for sale, they would not have been particularly anxious to prevent its passing into outside hands. For one thing, of three thousand and odd names which the list contains, it is probable that not more than two or three are those of persons now living.

On the other hand, some of these names are still familiar household words. At the time of the issue of this list the Governor was Mr. Sheffield Neave and the Deputy-Governor Mr. Bonamy Dobree. In the fifty-year-old list of directors we find such well-known cognomens (in a banking sense) as Baring, Buxton, Currie, Goschen, Guthrie, Hankey, Hubbard, Huth, Masterman, Mathieson, and Smith. Similarly, when we turn to the list of proprietors, there is a familiar ring about numerous names on every other page, and it is clear that the leading families of this country have always been big investors in Bank stock. There is, by the way, one very remarkable

and interesting point in the list, to which attention may be called. Opposite the names of each proprietor are placed asterisks, from one to four in number, signifying that the person so distinguished is capable of being (1) Governor, (2) Deputy-Governor, (3) Director, (4) Voter at annual elections. Of the names which are marked with the full four asterisks there are quite a number of ladies—spinsters and widows. May it be inferred from this that a lady is capable of filling the post of Governor of the Bank of England? According to the official list this is the case; but if one were to present herself for election, it is possible the existing authorities might have something to say in the matter. The point may be commended to the notice of Miss Billington, who may find here material for another agitation in favour of women's rights.

(*Financial News*.)

The American Lawyer tells a very amusing story against Mr. Francis L. Wellman, the author of the recent volume upon the "Art of Cross-Examination."

This lawyer had occasion to cross-examine a modest-looking young woman as to the speed of an electric car.

The witness seemed conscious that she was about to undergo a severe ordeal, and Mr. Wellman, feeling himself complete master of the situation, began in his most winsome and deprecating manner:—

"And how fast, Miss —, would you say the car was going?"

"I really could not tell exactly, Mr. Wellman."

"Would you say it was going at ten miles an hour?"

"Oh! fully that."

"Twenty miles an hour?"

"Yes; I should say it was going twenty miles an hour."

"Will you say it was going thirty miles an hour?" inquired Wellman, with a glance at the jury.

"Why, yes; I will say that it was."

"Will you say it was going forty?"

"Yes."

"Fifty?"

"Yes, I will say so."

"Seventy?"

"Yes."

"Eighty?"

"Yes," responded the young lady, with a countenance absolutely devoid of expression.

"A hundred?" inquired the lawyer, with a thrill of eager triumph in his voice. There was a significant hush in the Court room. Then the witness, with a patient smile and a slight lifting of her pretty eyebrows, remarked, quietly:

"Mr. Wellman, don't you think we have carried our little joke far enough?"

Comfort in Adversity.

ALTHOUGH liquidation of a company is usually unpleasant, it sometimes is the only way in which shareholders can get back capital sunk in an enterprise. The Merchant Banking Company is a small institution which has been worked for a number of years under respectable management. Misfortunes fell upon it in the past, which, to a large extent, crippled its power of expansion, and last year a further loss occurred which caused its reserve to be drawn upon heavily, and the final dividend to be omitted. In spite of assurances at the meeting that the assets were sound, the shares were sold freely, with the consequence that the credit of the bank was injured and its capacity to do business became impaired. Consequently the board have acceded to the wish of large shareholders to liquidate the bank, and a resolution to this effect will be made at a meeting to be held. The strange part of the affair is that when the news of the proposed liquidation became known, quite a keen demand sprang up for the shares, which, from being difficult to realise at £2 apiece, are now quoted nearly £3. It appears that whilst all the liabilities of the bank have been fully provided for, the surplus assets are anticipated to yield quite £3 a share. A very similar experience accompanied the liquidation of the Agra Bank some years ago.

(Evening Standard.)

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LAW REPORTS.

Bank Rate of Discount.

Sept. 28th 1905	4%
April 5th 1906	3½%
May 4th	4%
June 21st	3½%

The Chartered Accountants' Benevolent Association.

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SATURDAY, JULY 14, 1906.

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Extract from *Auditing*, by LAWRENCE R. DICKSEE, F.C.A.
(Page 190)

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W. H. BARKER, B.Sc.,
Principal.

The Accountant.

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Leading Articles.

Secret Reserves.—I.

It is some years since a legal decision has been delivered of such far-reaching importance to the profession as that given by Mr. Justice BUCKLEY on the 27th ult. in *Newton v. The Birmingham Small Arms Co., Ltd.*, and we accordingly propose to deal with the matter fully in these columns, first giving a somewhat detailed account of what transpired at the

hearing, which will serve to elucidate the more colourless Law Report which appeared last week, after which we propose to discuss in some detail the precise effect and limitations of his Lordship's judgment.

This was an action brought by Sir ALFRED NEWTON, on behalf of himself and other shareholders in the defendant company, for an injunction to restrain the company from acting on a special resolution passed by the company on the 24th January last, and confirmed on the 25th February, on the ground that such resolution was *ultra vires*. As has already been stated, the effect of these resolutions was to enable the directors of the defendant company, in any years in which they should recommend a dividend to be paid on the ordinary shares of not less than 10 per cent., to set aside out of surplus profits, without disclosing the fact, a sum, equal to the amount to be then paid as dividend to the ordinary shareholders, to the credit of a fund to be called the Internal Reserve Fund, to be used for any purposes which the directors in their absolute discretion might think fit. The resolutions further provided that while the auditor was to be allowed access to the accounts relating to the constitution and allocation of such Internal Reserve Fund, he was not to disclose any information with regard to the same, to the shareholders or otherwise. Mr. BUCKMASTER, K.C., M.P. (with him Mr. NEWTON), was for the plaintiffs; Sir ROBERT FINLAY, K.C., Mr. PARKER, and Mr. UTHWATT were retained by the defendant company.

In opening the case for the plaintiffs Mr. BUCKMASTER pointed out that the effect of these resolutions being declared valid would be to enable the directors to conceal from shareholders all information with regard to the

Secret Reserve, not merely as to how (if at all) it was invested, but even as to whether any such reserve existed. He pointed out, moreover, that if the resolutions were to be acted upon, the company's auditors must perforce disobey the clear provisions of Section 23 of the Companies Act, 1900, in that their report on the company's Balance Sheet and affairs would not be a report on the accounts as a whole, but only on a selected portion thereof. His Lordship here interposed to say that he did not see how it was possible to conceal this fund if the accounts showed the true profits and assets of the company; even if no Profit and Loss Account was published, the balance of such account must appear in the Balance Sheet, and under the circumstances the balance shown as available profit would, it seemed to him, not be the whole of the true profit, but a smaller sum. The accounts would not thus show the whole of the profits earned, but would in effect state that the profits earned were at least so much, and the effect of the auditors' report would, it seemed to him, be upon the same lines that after an examination of the accounts they were able to report that the available profits were at least so much. Mr. BUCKMASTER pointed out, however, that Section 23 requires the auditors to make a report to the shareholders on the accounts examined by them, and argued that therefore as even under the proposed articles they were to be allowed to examine the accounts relating to the Secret Reserve, it was incompetent for the articles to take away from them their statutory power to report to the shareholders thereon. He pointed out that although he had not the least desire to make any suggestions of impropriety, as these articles stood there was nothing whatever to prevent the directors from

employing the internal reserve for bribes, and contended that an auditor must always report irregularities of payments to shareholders, or the whole substratum of an audit would be lost. Counsel added that he understood that a strong argument on the part of the defence would be that it was open for the shareholders to contract out of the privileges to which they were entitled by statute. He referred, however, to the decisions that had been given showing that the statutory rights conceded to a shareholder by Section 161 of the 1862 Act could not be contracted out of by resolution. At this stage his Lordship interposed that the point seemed to him as to whether it was competent for a company to resolve that part of its profits should be applied towards the formation of a Secret Service Fund. Mr. BUCKMASTER replied that his case did not merely rest upon the provisions of the 1900 Act. Although there was no statutory provision for the audit of companies' accounts before that date, he contended that under the common law shareholders, as partners, had a right to an account at some time, and a right to certain facilities for the verification or audit of that account. Directors were, he declared, undoubtedly accounting parties, using the term in the ordinary business sense; and, that being so, surely no majority of shareholders could so take away the rights of a dissentient minority that the misfeasance of directors might be concealed, and the provisions as to audit rendered absolutely nugatory. There was at this stage some legal argument as to the application of the decision of the Court of Appeal that a clause in articles of association that a shareholder shall not petition for the winding-up of a company is invalid, and his Lordship

interposed to point out that although the Companies Act, 1900, made certain provisions for the audit of the accounts of all companies, yet if the company did not appoint an auditor, and if no shareholder took the trouble to make application to the Board of Trade, there would be no auditor. Hence it followed that the statutory provisions as to audit constituted no safeguard to the public. Counsel submitted, however, that this helped his case that the audit was for the protection of the shareholders. He pointed out that under certain circumstances it must become the duty of the auditor to report to shareholders as to the manner in which a Secret Reserve was being applied, or misapplied, and argued that no articles of association which purported to bind an auditor to commit a misdemeanour could by any possibility be valid. In conclusion he referred at length to the decision of the Court of Appeal in *The London and General Bank* case, and in particular to the *dictum* of Lord Justice RIGBY that articles of association cannot absolve the auditors from any obligation imposed upon them by statute.

In the absence of his leader, Mr. PARKER replied for the defendant company. He argued that prior to the 1900 Act there were no statutory obligations as to accounts and audit, and that even under Section 23 there was no statutory obligation upon a company to supply its shareholders with any Balance Sheet at all. His Lordship, however, said that by inference there was an obligation to supply a Balance Sheet. He pointed out that the argument of silence might be carried too far. There were no express words to say that the auditor should audit the accounts, but it was sufficiently obvious that he could not perform his statutory duty of signing a certificate at the

foot of the Balance Sheet without first auditing the accounts, nor could he do so if no Balance Sheet was provided. Mr. PARKER abandoned that point, and then proceeded to argue that as in practice a Profit and Loss Account, although of necessity prepared, is frequently not published, so with Internal Reserves. Their existence was a matter of common knowledge, and he argued that all that the defendant company was seeking to do was to regularise a practice which all the soundest business undertakings were conforming to under somewhat less regular conditions. It was a case of the end justifying the means, for owing to differences between capital and labour, or between trader and trader, there might be good grounds for not showing the whole of the financial position. There was at this stage something in the nature of a discussion between his Lordship and counsel as to how the directors' policy could be carried out in practice. The discussion was interesting as showing beyond doubt that, where Secret Reserves exist, when shareholders vote moneys to be transferred to a disclosed Reserve Fund they do so more or less in the dark, and that they do not know what is the whole amount of the available profits, nor how much (if any) of those profits have already been set aside before a figure of reduced profits is admitted. This point again was left by Mr. PARKER, who after pointing out that the Balance Sheet which the auditors would sign would, of course, be the full Balance Sheet, although that would not be the one that would be published, proceeded to argue that in spite of these articles the auditor would not be bound to suppress malversation of funds relating to the Secret Reserve, and that the effect of the articles was merely to recite that it was no part of his duty

to go into details. His Lordship pointed out, however, that the articles went much further than this, they said that the auditor should not give any information. Counsel replied that it was not intended that the articles should contravene the statute, and that, of course, they could not do so. He argued that the provisions of the articles must therefore be assumed to be limited to a corresponding extent. As to Mr. BUCKMASTER's assertion that this was not a matter for contracting out, Mr. PARKER mentioned that partners may contract out of their right to look into accounts, and inquired why shareholders, who are virtually partners, should be debarred from a similar right. At this stage his Lordship again intervened to ask counsel whether he thought that an auditor would be properly carrying out his duty to report to the shareholders on the accounts examined by him in the terms of Section 23 if he were in effect to say "Concerning so-and-so I will tell you nothing." Counsel contended that it was legitimate for shareholders to carry on, in effect, two businesses, and to say, "With regard to business A we wish the auditor to report to us fully; with regard to business B we wish for no such report." But his Lordship apparently remained unconvinced upon this point, for he put it to counsel in several different forms, although always with the same result, beyond obtaining the admission that, so far as the employment of moneys represented by the Secret Reserve were concerned, clearly such moneys must only be applied within the limits prescribed by the company's memorandum of association. In conclusion, Mr. PARKER pointed out that, as a matter of fact, the disclosure usually made by companies as to the application of their disclosed

Reserve Funds is wholly inadequate, but he failed to draw attention to the material distinction that with a disclosed Reserve Fund at least the amounts taken credit for from time to time are known quantities. The objections to the existence of a secret reserve are by no means entirely confined to the absence of knowledge as to how it is invested or applied; they are, it seems to us, equally strong in connection with the original transfer from Profit and Loss. This is a point, however, upon which no one appears to have insisted very strongly. Sir ROBERT FINLAY then spoke on behalf of the defendant company. A summary of his contentions will appear in our next article.

Vouching in the Conduct of Audits.

THE lecture by Mr. H. E. BARHAM, F.C.A., on "Vouching in the Conduct of the Audit of Accounts of Joint Stock Companies," which was delivered at a recent meeting of the Chartered Accountants Students' Society of London, and fully reported in our issue of the 2nd ult., is one of more than usual interest, in that, apart from the importance of the subject, its treatment at the hands of the lecturer is of an eminently practical description; and he has, moreover, contrived to put forward his views in a manner which can hardly fail to arouse and retain attention.

The view adopted by Mr. BARHAM is that which we have ourselves upon several occasions put forward in these columns—namely, that the process of vouching in connection with an audit is no mere mechanical process of comparing receipts for money paid with corresponding entries upon the credit side of a Cash Book, but is rather a process of sifting all available evidence with a view to satisfying

oneself that the entries recorded in the books of account are justified by the actual facts that have transpired. That is to say, the vouching is no mere adjunct to the process of auditing, and a monotonous one at that, but rather the whole substratum of the audit itself. The adoption of this view offers not merely the advantage of infusing a considerable amount of interest into an otherwise dry and uninteresting subject. It further draws attention to a point which, elementary as it may be in a certain sense, is but too apt to be overlooked in practice—namely, that in auditing nothing must be taken for granted, but everything must be thoroughly sifted to the bottom, and that the process of sifting and verifying is in point of fact equivalent to the process of vouching. As Mr. FREDERICK WHINNEY, F.C.A., pointed out many years since, the majority of the items in connection with any accounts that may be submitted for audit represent either wholly or in part matters of opinion or estimate rather than matters of fact—a circumstance which so far from removing these doubtful items from the scope of the auditor's investigation, throws upon him an increased responsibility of satisfying himself that they have been properly and fairly dealt with. Mr. WHINNEY's recipe for satisfying oneself upon such a point was to sift the evidence available, and this is, of course, merely another name for the examination of vouchers, although perhaps, upon the whole, it more adequately describes this all-important process. The drawback to the employment of the narrower term "vouching" is that it has so long been adopted as a term for expressing the process of verifying entries in a Cash Book, that, in the absence of a word of caution, there is very considerable

risk that the young student may at once run away with the idea that the term "vouching" applies exclusively to the verification of Cash Book items, and of them alone, whereas, of course, an audit founded exclusively upon a verification of cash items would be as incomplete and as inefficient as the average so-called audit performed by an official auditor employed by the Local Government Board. So long as a business is continued, so long will there at any given moment of time be pending or uncompleted transactions which have to be dealt with in accounts that may be framed purporting to show the position of affairs up to that particular date. So long, therefore, as the custom of preparing periodical accounts during the continuance of an undertaking remains, an audit confined to the verification of cash items, and to them alone, must continue to be essentially unsatisfactory and incomplete. Indeed, it is fairly safe to say that, whereas in general any capable junior is quite competent to verify completed transactions, it is in connection with the uncompleted transactions that the chief difficulties of an audit arise, and it is therefore on their account that it is so necessary that all who undertake the duties of an auditor should be properly qualified by training and experience. From the point of view of experienced accountants these remarks will doubtless appear somewhat in the light of platitudes, but that they are by no means generally admitted is sufficiently evidenced *inter alia* by the fact that even in these days, and in spite of the provisions contained in Section 23 of the Companies Act, 1900, a very large number of able business men still adhere to the proposition that it is no part of an auditor's duty to inspect the Minute Book of a company. So long as an audit is regarded

as a process of verifying completed transactions, it is quite likely that the necessity to inspect the Minute Book might be avoided, as there would doubtless be other and sufficiently corroborating evidence of all transactions that had been actually brought to an end; but in order to determine whether pending transactions have all been brought into account, and whether a correct money value has been attached to each and every one of them, a careful consideration of all the available evidence, including the records contained in the Minute Book, is absolutely essential.

Upon the subject of the necessity of a strict and rigid attention to detail in connection with every audit, the lecturer's concluding observations are particularly interesting, but we venture to think that, while very properly drawing attention to the supreme importance of this part of an audit, Mr. BARHAM might have emphasised the fact that it is of value not so much in itself as a means to an end, namely, that the accounts may fully and fairly disclose the true position of the undertaking as shown by the books. No Balance Sheet was ever yet prepared of a going concern which was absolutely correct as a statement of fact. Therefore, an inquiry as to what is a reasonable margin of permissible error is entirely comprehensible. And if the possibility of error could be kept within such a reasonable margin, and the tedious and soul-destroying process of verifying huge masses of detail avoided, or in any way limited, there would be very much to be said in favour of a system which, while dealing adequately with all that was essential, by avoiding the unessential left the mind of the auditor more free to seriously grapple with the things that mattered. Mr. BARHAM is a little vague, but we take him to mean that there is

no short cut, and no practical means of telling what really matters and what is immaterial until after the detailed verification of every item has been made. As a statement of general principles this may well be admitted, and there can be little doubt that the auditor who neglects any available means of verification does so at his peril. At the same time it is, of course, common knowledge that in the audit of the accounts of all undertakings of any real magnitude nothing approaching a really exhaustive first-hand verification of all available details is ever attempted. In such cases the system of internal check—or staff audit, as it is sometimes called—is necessarily relied upon to a greater or less extent, and so long as inquiry demonstrates the existence of an adequate system of internal check, it may safely be relied upon within its limitations. It is here, of course, that the real need for experience and skill comes in. No very great amount of judgment is required from the auditor who performs an absolutely complete audit down to the uttermost detail. But where, owing to the exigencies of the case, some abbreviated form of inquiry is of necessity relied upon, it is not too much to say that the auditor is called upon to exercise as skilled and as mature a judgment as can well be conceived. And the seriousness of his position is certainly not minimised by the reflection that should his judgment be at fault it is quite an open question whether a Court which has no special knowledge of the practical requirements of the situation, and is, therefore, not really competent to express any opinion thereon, will not hold him liable for having discharged his duties without reasonable skill or reasonable care. Such a charge could be, of course, in all cases avoided, if the auditor were really content to take absolutely nothing

for granted save that which he had verified at first hand; but if all auditors were to proceed upon that assumption, it would be absolutely impossible for general meetings to be held within anything approaching a reasonable time from the date on which the Balance Sheet of the company was drawn.

Weekly Notes.

Income Tax in France.

For the last ten years each succeeding Minister of Finance in France has introduced a Bill for the purpose of augmenting his Budget by means of a tax on revenue, but few of these measures have ever been seriously discussed, and it has remained for M. Poincaré to really stir the public. A spirit of unrest is abroad, a fiend of inquiry, that even the Jardin de Paris cannot exorcise. Rente has fallen from its high place, and Deputies here and there are beginning to shake their heads and ask what it all means. The very essence, as it were, of the tax is not clearly understood: one says it is an impost to replace one or two of the present contributions by a tax calculated to reach the total income of every citizen; another argues that nothing worth accomplishing will have been performed unless a new system of taxation is substituted for the old one, which means, of course, the revision of all direct taxes. Since the new imposts, as the Deputy for the Sarthe Département reminds us, must be organised in such a manner as to realise immediately a complete recasting of departmental and communal finances, the problem is not without complications and complexities. It is contended that to base an income-tax on external signs of wealth is to court fallacy. To tax measurable realities should be the guiding spirit of reform, and in this direction, if Gallic exchanges may be believed, there is little being done. Most writers on the subject agree that the rush to embark capital in foreign enterprises will be very great if the present Bill becomes law, and one French ex-minister goes so far as to suggest the adoption by various nations of a system of joint legislation with regard to bank deposits! The feature of the situation which strikes us as being most novel is the aptitude for business shown by the managers of the Bankverein Suisse, who, in the course of a long circular letter addressed to notaries, trustees, rentiers, agents de change, &c., all over France, after calling attention

to the many ways in which they are prepared to serve the investing public, specially mention their system of joint accounts or joint deposits for the benefit of two or more persons. They naively remark, "we may here add that deposits placed with us by persons of a foreign nationality, and residing outside Switzerland, are exempt from every tax, even in the case of the death of the proprietor." The further development of the question is fraught with many possibilities, but whether M. Raymond Poincaré's Bill passes into law or not, the imposition of an income-tax is bound to come sooner or later.

The Evasion of Income-Tax. Giving evidence before the House of Commons Select Committee, Sir T. Hewitt, K.C., clerk to the Commissioners of Taxes for the City of London, is reported to have said that if a tax of 2s. were imposed on incomes above £40,000 he had not the slightest doubt that there would be a transfer of very large sums of capital from England to other countries. A man with an income of £40,000 might distribute it over his family in order to escape the tax. There was nothing immoral, in his opinion, in trying to evade the tax in this way. Mr. Spencer Phillips (Chairman of Lloyd's Bank and President of the Institute of Bankers), said he did not think there was much evasion of income-tax through banking accounts. It would, in his opinion, be absolutely fatal to give the income-tax authorities the power to examine private banking accounts. He did not think the country would stand it for a moment.

Wanted: a Definition of "Cheap." During the course of an inquiry at the Stratford Town Hall a discussion arose as to the price of West Ham Corporation Stock, and the Deputy Town Clerk is reported to have said that it was "the cheapest trust stock in the market." A contemporary rightly points out that a depreciated quotation does not necessarily indicate a cheap stock, and if Mr. George Hilleary had said that it was the *lowest-priced* trust stock he would have been more accurate.

One Pound Notes and—Other Things. An amusing instance of blind-sidedness is shown by a correspondent of *The Financial News* in the course of a short article on the ever green subject of £1 notes. After pointing out that the collapse of 1828 caused the Government to prohibit the issue of £1 notes altogether,

and the subsequent effect of the Bank Charter Act, the writer goes on to say:—

"Sixty-two years have since elapsed, and, seeing that the population of England alone has risen from about 17,000,000 in 1844 to about 34,000,000 in 1905, I think a revision of the Act of 1844 is needed. We all know of the evils of monopolies; and trusts, as practised in America, are monopolies of the worst kind. Parliament might well take into consideration the passing of an Act permitting banks established for not less than, say, thirty years, and possessing a paid-up capital of at least £500,000 to issue notes of £1 denomination up to 20 per cent. of their paid-up capital, against a gold reserve or Consols deposited with and under the control of a Government official. This would involve the appointment of a public trustee—an official who has been wanted for years past, in view of the many cases which have occurred of late years of fraudulent executors and trustees.

It would be provided that a public trustee should hold security for a note issue of other joint-stock banks as well as the Bank of England, and it would be competent for the trustee to certify, by a periodical examination of the bank's books, the extent of its note issue and the security held by it for its due payment on demand. The wear and tear of our gold coinage has often been a difficult problem to solve; and these notes would solve it, as the cost of printing, &c., of the notes would be borne by the issuing banks, while the gold coin would be preserved in the bank cellars and suffer no deterioration whatever."

The reasoning is not quite clear, for we should have thought that mere age alone was not sufficient to warrant repeal. There is no real popular clamour for £1 notes, and therefore although sixty-two years have elapsed since the Bank Act was passed that is not quite sufficient evidence in favour of its abolition or amendment. Then we have the popular war-cry of "trusts and monopolies" dragged in, leading up to a suggestion for the appointment of a public trustee (who would strangely enough be also a monopoly), whence we pass to fraudulent executors and trustees—this is after starting on £1 notes! As to the "periodical examination" question, we seem to have heard its like before, and we often wonder how long it will be before the public generally realise that periodical examination by a Government Inspector is only of value where that said inspector is qualified to perform it, and that no value attaches to the fact that the officer is employed by Government.

The Dublin Corporation and its Official Auditor. It is stated that the Dublin Corporation has refused to obey the writ of *mandamus* of the King's Bench Division ordering them to produce their books to Mr. J. W. Drury,

the Local Government Board Auditor, and, if this view be persisted in, the next step will presumably be by way of motion for committal. So far as we can gather from the reports which have appeared in the Dublin press, the Corporation would appear to have absolutely no reasonable ground for complaint against its auditor. It is to be concluded, therefore, that its grievance—if indeed there be one—is of a political character. Doubtless there would be excellent political capital to be made out of any attempt on the part of the Local Government Board to reduce the powers of local government which the Dublin Corporation has abundantly shown itself unfitted to exercise. We see, however, little prospect of any serious discussion of the matter that is likely to be of professional interest, and accordingly we have not thought it worth while to report the application for a *mandamus* fully in these columns.

Voluntary Liquidation. With further reference to the letter signed "Enquirer" in our last issue, which we answered briefly in a foot-note, although all text-books state it to be one of the first duties of a liquidator to settle the list of contributories, we may point out that in practice this is an absolutely needless waste of time and of money, save in cases where either something has to be recovered from the contributories or something has to be returned to them. Unless, therefore, the shares are not fully paid up, or unless there will be a surplus available for distribution among the shareholders, there is nothing to be gained by settling a list of contributories, and, as our correspondent remarks, the necessary notices are found to frequently produce a feeling somewhat akin to alarm in the mind of non-commercial shareholders. With regard to the steps that it is open for a liquidator to take for his own protection, to determine the order of distribution of assets, and especially as to the claims of competing series of debentures, unquestionably the proper course, wherever there is any reasonable doubt, is to apply to the Court for directions under Section 138 of the Companies Act, 1862. The procedure is speedy and inexpensive, but before embarking upon it the liquidator would do well to satisfy himself that the point at issue is one concerning which there is a *bond fide* doubt as to the state of the law or as to the facts, for if the application be held to be unnecessary the costs may fall upon the liquidator personally. Wherever, however, there is a *bond fide* dispute, such a contention is not likely to arise.

What is a Check Figure?

Doubtless many of our readers will have noticed two advertisements which appeared in our last issue making reference to a Check Figure System. In one advertisement it is claimed that by adopting their particular system you are able to secure the check of large amounts as quickly as it is written, whatever the "it" may be; while in the other advertisement our readers are entreated not to permit their clients to pay from ten to five hundred guineas for a check figure when they can obtain instructions in three quite easy methods for the modest sum of one guinea. If this system claims to represent some short cut for the verification of postings or Ledger balances, we feel sure that it would be of general interest if any of our correspondents can describe exactly how it is supposed to work. At the time of writing we feel somewhat sceptical as to the extent to which it is possible to employ short cuts for such purposes, but it is, of course, always as well to preserve an open mind until the facts have been fully stated.

Payment to Avoid a Prosecution.

An interesting and somewhat unusual case was heard in the Shoreditch County Court last week. The plaintiff's case was that a man in his employ had been entrusted with and had lost £300 worth of diamonds, and that the defendant in a friendly spirit had offered to give or sign two bills of exchange for fifty pounds each. Subsequently, according to the plaintiff, he discovered that the amount in figures had not been filled in, and handed the bills over to the defendant to enable him to supply the omission, whereupon the defendant, before he could interfere, tore the bills into fragments and flung them behind the fire. In cross-examination, however, the plaintiff was bound to admit that he had threatened to prosecute the loser of the diamonds, but had agreed not to do so if the defendant gave him the two bills. On behalf of the defendant it was submitted that this was a corrupt and illegal agreement, carried out for the purpose of defeating the ends of justice, and that therefore the claim must fail. His Honour supported this view, and judgment was given for the defendant accordingly.

The University of Birmingham. The Sixth Degree Congregation of the University of Birmingham was held on the 6th inst., the Vice-Chancellor (Alderman Beale) presiding, in the absence of the Chancellor (the Right Hon. Joseph Chamberlain, M.P.). Five candidates were admitted to degrees in Commerce. Before the

Congregation closed, a resolution was passed offering to Mr. Chamberlain hearty congratulations on the 70th anniversary of his birthday, thanking him for the forethought which conceived the scheme of the University, the energy which accomplished its foundation, and the unremitting attention and advice to which its progress was so largely due, and expressing the wish that he would live for many years to realise the gratitude of the Birmingham people for his devotion to their services during the long period he has been their fellow-citizen.

The Bills of Exchange Bill. At the Lord Chancellor's request Lord Avebury has, we understand, withdrawn his Bill for the amendment of the Bills of Exchange Act, 1882. This Bill, which must not be confounded with that which recently passed its third reading in the House of Commons, and was designed to obviate the inconvenience caused by the decision of the House of Lords in *The Capital and Counties Bank v. Gordon*, had for its object to enable the holder of a dishonoured bill to at once have it protested and registered, whereupon summary judgment could be had and execution issued unless the debtor obtained a stay of execution by paying the amount into Court, or by obtaining special leave to have an issue tried as in an action. This is on the lines of the Scottish law relating to bills of exchange, and would, it seems to us, be a material improvement upon the existing procedure, under which frivolous defences to actions for recovery upon bills of exchange are not quite so uncommon in practice as they are in theory.

Politicians and Judges. Perhaps the most noteworthy feature of the debate in the House of Commons on the 6th inst. on Mr. Swift Macneill's motion that the House resolve itself into Committee to consider the report of the proceedings on the trial of the election petition for Yarmouth, and the complaints that have been made of the partisan and political character of the conduct during the trial of that petition of Mr. Justice Grantham, was the spirited defence of his Lordship by Mr. Buckmaster, K.C., who as a Liberal member of Parliament is hardly likely to be accused of taking an unduly lenient view of the matter. The motion was, of course, withdrawn, inasmuch as probably neither its mover nor its seconder seriously believed that there had been any miscarriage of justice. Their object was doubtless to call attention to the fact that relevant comments from the Bench are at all times

undesirable, and frequently create an unfortunate impression among those whose sole knowledge of the facts is that which can be gained from a newspaper report. That the dignity of the Bench would be better preserved if Judges were in all cases to keep silence, except where the proper discharge of their duties requires them to speak, is very generally admitted, and some of our legal contemporaries have even expressed the view that there would be far fewer arrears to work off were such a course to be invariably pursued; but, after all, an election petition is by no means so solemn an affair as a criminal trial, and it seems possible even for the House of Commons to take itself too seriously.

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinions expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Points in Insolvency Law.

(To the Editor of The Accountant.)

SIR,—Can any of your readers oblige me with (1) The practice under Section 5 of the Debtors Act, 1869, whereby the Court may, in effect, make a receiving order on the application of a judgment creditor. I am anxious to know upon what principles the Court exercises its discretion. (2) I should also be obliged for information whether a deed of assignment executed by the debtor and trustee, but not by any creditor, is sufficient to protect the assets against execution. Lawrence, in his "Deeds of Assignment," advises that no creditor need be asked to sign, but quotes no authority. It seems possible that the communication of the deed to any creditor may make the difference.

Yours, &c.,

July 9th 1906.

Estate Duty.*(To the Editor of The Accountant.)*

SIR,—I have read, in your current issue, the inquiries of your correspondent "Executor," and your brief but lucid answers, and I think it may be useful to point out that a child bringing advances into hotch-pot is entitled to deduct from such advances estate duty at the rate paid in respect of the estate.

I am, Sir, your obedient servant,
HERBERT EDWARDS.

9th July 1906.

(To the Editor of The Accountant.)

SIR,—In *The Accountant* of July 7th, p. 11, column 2, you express an opinion that advances made by a testator to a child, and directed to be brought into account for division, are also to be brought into account for estate duty. I doubt if this is so if the advances were made more than twelve months before the death. The Acts bearing on the subject are:—Customs, &c., Act, 1881, 44 Vict. c. 12, s. 38, subsection 2 (a); Customs, &c., Act, 1889, 52 Vict. c. 7, s. 11 (1), first sub-paragraph; Finance Act, 1894, 57 & 58 Vict. c. 30, s. 2, subsection 1 (c).

Yours truly,

London, 10th July 1906.

A. D. TYSEN.

A Question of Apportionment.*(To the Editor of The Accountant.)*

SIR,—I have just been perusing a work by a Chartered Accountant in which he states that "he must mention the legal decision which lays it down that on the sale or purchase of any shares or stock "cum dividend," such accrued dividend is *not* apportionable between capital and income, but the actual price realised on the sale of the stock or the actual price paid for the purchase of such stock should be placed to the credit or debit of capital, as the case may be."

The object of my communication is to inquire if you or any readers of *The Accountant* can inform me the name and date of the case in question. It seems to me that there is a variety of opinion on the point. If the statement in my book is correct, I think it is unfair to the tenant-for-life that he should be deprived of so much income in consequence of the particular time elected for the sale of the stock or shares. I

think it is generally understood that when investments are sold "cum dividend" the purchaser takes that fact into account when making his offer. I cannot, therefore, see any reason why an apportionment should not take place by a trust under these conditions. Of course, in the case of a purchase the remainderman suffers.

Perhaps you will kindly oblige by inserting this letter in your next issue.

Yours faithfully,

STUDENT.

10th July 1906.

[The application of the Apportionment Act is limited to the circumstances recited therein, and does not apply to changes of investment. See, however, *Barker v. Perowne*, 18 C.D. 160; *Lord Londesborough v. Somerville*, 19 Bevan 295; *Bulkeley v. Stevens*, 3 New Rep. 105.—*Ed. Acct.*]

The Institute of Chartered Accountants in England and Wales.

At a meeting of the Council, held on Wednesday, the 11th July 1906, at the Hall of the Institute, Moorgate Place, E.C., there were present:—Mr. W. B. Peat (President) in the chair, Mr. J. B. Ball (Vice-President), and Messrs. W. Ashworth, J. H. Blackburn, W. Blease, T. Bowden, E. M. Carter, Ernest Cooper, Sir John Craggs, Mr. E. Edmonds, Sir Walter Fisher, Messrs. W. H. Fox, John Gane, A. H. Gibson, T. Gregory, J. G. Griffiths, J. E. Halliday, B. W. Hardcastle, J. S. Harwood-Banner, M.P., A. C. Harper, D. Hill, C. Fitch Kemp, H. Woodburn Kirby, G. Walter Knox, A. O. Miles, F. W. Pixley, W. Plender, F. J. Saffery, T. G. Shuttleworth, G. Sneath, J. M. Wade, F. Whinney, T. Wise, and J. W. Woodthorpe.

The Examination Committee reported the results of the Examinations in May and June 1906, as follows:—

	Passed.	Failed.	Total.
Preliminary	136	49	185
Intermediate	120	66	186
Final	105	69	174
	<u>361</u>	<u>184</u>	<u>545</u>

Also that the following prizes and certificates of merit had been awarded:—

PRELIMINARY EXAMINATION.**Prize.**

Wykes, P. R., Leicester.

INTERMEDIATE EXAMINATION.

Prize.

Hare, M. L. T., M.A. (G. Sneath), London.

FINAL EXAMINATION.

Certificates of Merit in Order of Priority.

Clinch, S. H. (H. W. A. Hislop), London.

Sharp, R. C. (J. Watson), Carlisle.

{ Ismay, E. W. (A. P. Spence), Newcastle-upon-Tyne.

{ Millward, R. T. (A. G. Pugh), Llandudno.

Shoveller, H. L. (B. D. Holroyd), London.

Morton, J. H. (A. H. S. Glenton), Newcastle-upon-Tyne.

Ramsden, W. D. (T. H. Barron), York.

Horsley, H. R. (P. D. Leake), London.

Scott, A. (W. Morton), Hyde.

Judson, C. (G. F. Stewart), Birmingham.

The Robert Fletcher Prize (a sum of £30 a year, payable in half-yearly instalments from the date of the examination to the termination of articles) was awarded to B. H. Brigham (W. F. Bridgwater), Birmingham, who was second in order of merit in the Intermediate Examination, the candidate who obtained the first place being over the age limit laid down by the rules.

The prize will again be competed for at the November examination.

The Secretary reported :—

- (1) The appointment of the following Chairmen of Committees :—

Examination..	..	..	Mr. J. E. Halliday.
Finance ..	..	..	„ A. O. Miles.
Investigation ..	..	..	„ T. A. Welton.
General Purposes ..	..	..	„ J. G. Griffiths.
Parliamentary and Law ..	..	..	„ E. Waterhouse.
Students Societies' Grants..	..	..	„ J. G. Griffiths.

- (2) Death of :—

Mr. E. M. Sharp, F.C.A., Birmingham.

„ J. Hudson Smith, F.C.A., Bristol.

„ Wilson Hamilton, A.C.A., London.

At a special meeting of the Council, held on the 6th June 1906, Mr. James Boardman, F.C.A., of 2 St. James's Square, Manchester, was excluded from membership of the Institute.

Recent Additions to the Library.

Purchased.

Brewers' and Bottlers' Accounts. By H. Lanham, A.C.A. London : 1906.

Urban District Councils' Accounts. By F. S. Eckersley. London : 1906.

Balance Sheets and how to read them. By T. H. Gough, A.C.A. London : 1906.

Beginnings in Bookkeeping. By J. Hunter. London : 1898.

The Case for Partnership Insurance. By T. P. Wansborough. London : 1905.

New English Dictionary. By J. A. H. Murray. Ph.-Piper (part of Vol. 7). London : 1906.

Palmer's Index to *The Times*, January-March 1906.

Parliamentary Debates, Vols. 4-6 of 1906.

Presented by the Authors.

Auditors. Part I. 9th Edition. By F. W. Pixley, F.C.A. London : 1906.

Auditors. Part II. Local Government Auditing. By F. W. Pixley, F.C.A. and R. B. Fellows. London : 1906.

Early Stages of Preparation for the Accountancy Papers of the Intermediate. By A. E. Cutforth, A.C.A. London : 1906.

Bookkeeping for Solicitors. By L. Whittem Hawkins, A.C.A. London : 1906.

Field's Analysis of Gas Accounts for 1905, compiled by G. Offord.

Presented by Messrs. Shaw & Sons (the Publishers).

Archer's Tables for the Repayment of Loans, &c. By J. A. Archer. 4th Edition. London : 1906.

Presented by the City Treasurers.

City of Capetown Accounts. 1905.

City of Birmingham Financial Statement. 1905-6.

Presented by the Borough Treasurer.

County Borough of Birkenhead Statement of Accounts. 1905-6.

Presented by G. Reymondin.

Le Code des Comptables. Par L. Rachou. Paris : 1899.

Les Expertises Comptables. Par G. Faure. Paris : 1902.

Histoire de la Société Académique de Comptabilité. Par G. Reymondin. Paris : 1906.

Tenue des Livres sur Feuillet Mobiles. Par G. Faure et L. Rachou. Paris : 1906.

Presented by the Council of the Law Society.

Officialism : Report of the Special Committee. London : 1905.

Chartered Accountants' Masonic Lodge.

In our report of the consecration of the above Lodge last week we omitted to mention that Sir Edward Letchworth was assisted by the following members of Grand Lodge:—Dr. K. Gooding, P.G.D., as S.W.; Edwin Fox, P.A.G.D.C., as J.W.; the Rev. Canon Horsley, M.A., G. Chaplain, as Chaplain; Henry Times, P.D.G.D.C., as D.C.; and T. A. Bullock, P.G.Sd. B. as I.G., and in the list of guests at the banquet the name of Bro. W. T. Leviansky was wrongly spelled.

The Chartered Accountants Students' Society of Kingston-upon-Hull.

THE annual general meeting of the above Society was held in the Hall of the Incorporated Law Society, Hull, on Wednesday evening, 27th June 1906. Mr. Thos. Goldie, A.C.A., occupied the chair. Amongst others present were:—Messrs. J. J. Campbell, A.C.A.; W. P. Vickerman, A.C.A.; W. J. Dawson, A.C.A.; and J. B. Batchelor, A.C.A.

The Report and Accounts of the Committee and the Librarian's Report were approved and adopted. The following are the

REPORT AND ACCOUNTS.

Your Committee submit with pleasure their Annual Statement of Accounts and Report for the year ended 30th April 1906.

The number of members at the end of the year was 65, consisting of 25 honorary and 40 ordinary members.

Eleven ordinary meetings have been held during the two sessions, at which there has been an average attendance of 17.6.

Your Committee wish to place on record their thanks to those gentlemen who have so kindly given the excellent lectures and papers which have been delivered to the Society.

Joint debates have been held during the year upon a Balance Sheet and Report drawn up by the Working Union of Chartered Accountant Student Societies. A visit was made to Hull by several members of the Liverpool Society, and a deputation from your Society visited Sheffield. These inter-debates were most interesting and instructive.

The annual dinner and concert was held at the Grosvenor Hotel, when a large number of members were present. An enjoyable evening was spent, during which a presentation was made to the retiring President, Mr. W. R. Locking.

Your Committee regret that there were not more entries for the President's Prize Essay Competition, but trust that during the next session more members will take an interest in this direction.

The accounts duly audited are hereunto annexed. It will be seen that there is a surplus for the year of £2 os. 10d., as against a deficit of 18s. 10d. last year. As in the previous year, the cost of the Joint Transactions of the Working Union of Chartered Accountant Student Societies has been charged in the accounts, and copies have been distributed amongst the members free of charge.

W. F. HARRIS,

President.

LIBRARIAN'S REPORT.

Gentlemen,—During the year ended 30th April 1906 44 members made use of the Library, and 230 books were circulated. The subjoined analysis, which includes 1900-1 (the first year of the Library's existence), serves to show its increasing utility.

	1900-1	1904-5	1905-6
Arbitrations and Awards ..	2	4	5
Bankruptcy and Deeds of Arrangement.. ..	2	18	13
Bookkeeping and Auditing ..	10	62	70
Company and Partnership Law	5	38	37
Executors, Trustees, and Receivers	10	33	37
Mercantile and General Law	8	26	31
Miscellaneous	3	38	37
	40	219	230

The Library now contains 236 volumes, an increase of 36 since the date of the last report.

I am, Gentlemen,

Yours faithfully,

W. PERCY VICKERMAN,

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Hon. Librarian.

The officers of the Society for the ensuing year were elected as follows :—

President.—Mr. W. F. Harris, F.C.A.

Vice-Presidents.—Messrs. J. Gregson, F.C.A.; J. A. Carlill, F.C.A.; W. Smailes, A.C.A.; and A. W. Retchford, A.C.A.

Hon. Secretary.—Mr. W. Percy Vickerman, A.C.A., 9 Parliament Street, Hull.

Hon. Librarian.—Mr. C. M. Strachan.

Hon. Treasurer.—Mr. J. B. Batchelor, A.C.A.

Committee.—Messrs. Thos. Goldie, A.C.A.; J. J. Campbell, A.C.A.; W. J. Dawson, A.C.A.; H. W. Locking, A.C.A.; J. R. Meals; W. E. Scott, A.C.A.; and C. L. O. Cleminson.

Hon. Auditors.—Messrs. E. W. Shaw, A.C.A.; and F. M. Turnbull.

A vote of thanks was passed to the gentlemen who had given lectures and papers during the autumn and spring sessions 1905-6, and to the officers and auditors for their services during the past year.

The Bristol Chartered Accountants Students' Society.

THE tenth annual meeting of the Society was held at the Library, Albion Chambers, Bristol, on Saturday, June 30th 1906.

The Chairman (Mr. C. L. Cummins, A.C.A.) congratulated the Society on having attained its tenth anniversary, and expressed the hope that its activity and usefulness would continue to increase.

The following are the

REPORT AND ACCOUNTS.

Your Committee have pleasure in presenting their Report and Statement of Accounts for the year ended April 30th 1906.

1.—During the year 6 ordinary members have been elected, and having deducted those who have ceased to be members, the numbers are 31 honorary members and 37 ordinary members, as against 30 and 34 respectively last year.

2.—During the past session the following meetings have been held :—

1905

Oct. 25 (Wed.)—Mock Shareholders' Meeting (joint debate with Chartered Accountants Students' Society of London). Chairman, Mr. S. Pim Jackson, A.C.A.

Dec. 6 (Wed.)—"Income-Tax" (dealing with report of Departmental Committee). Mr. Chas. Comins, F.C.A. Chairman, Mr. A. Lee Hellyer, F.C.A.

1906

Jan. 12 (Friday)—"Brewers' and Bottlers' Accounts." Mr. Herbert Lanham, A.C.A., of London. Chairman, Mr. C. L. Cummins, A.C.A.

Feb. 9 (Friday)—"Faults in Company Law and the Remedies." Mr. G. H. Boucher, Solicitor. Chairman, Mr. F. Percy Jenkins, F.C.A.

Mar. 7 (Wed.)—"Bills of Sale." Mr. E. H. C. Wethered, B.A., LL.B. (Barrister-at-Law). Chairman, Mr. Clare Smith, F.C.A.

On November 7th representatives from our Society attended a mock shareholders' meeting at Birmingham, arranged as a joint debate with the Birmingham Chartered Accountants Students' Society.

The Committee, on behalf of the Society, beg to express their indebtedness to the gentlemen who have read papers or otherwise assisted at the meetings, and record their pleasure at the success of the mock shareholders' meeting on October 25th 1905, arranged by Working Union of Chartered Accountants Students' Societies.

3.—By the kindness of the Bristol Society of Chartered Accountants the members of the Students' Society were invited to attend a meeting held at the Grand Hotel, on December 1st 1905, at which Mr. W. B. Peat, F.C.A. (Vice-President of the Institute) presided, and short papers were read by Messrs. F. A. Jenkins, F.C.A., Clare Smith, F.C.A., and Stephen Tryon, F.C.A.

4.—The Librarian's report will be read at the annual meeting. As shown in the accounts, the Committee have as usual written off depreciation on the books at the rate of 20 per cent.; they hope during the ensuing year to extend the practical utility of the library.

At the general meeting the following resolution will be proposed :—"That in future the library will be open for "issue and return of books from 10.30 to 11.30 on Saturday "mornings (or when lectures are in progress at the end of "the same)."

5.—During the year the following members have been successful at the Institute Examinations :—

May Intermediate.

R. A. Butt ..	..	(J. E. Grace) 5th in honours.
L. J. Coates ..	..	(H. Grace) 9th in honours.
H. Ellett ..	..	(C. S. Ware)
H. W. Horner ..	..	(G. Panes)

May Final.

H. E. Keeler	..	(T. F. Sharp)
H. E. Nowell	..	(J. Milne)
H. S. Thynne	..	(J. H. Watling)

December Intermediate.

G. S. Brewster	..	(H. Anstey)
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December Final.

R. C. Haddon	..	(H. Grace) 3rd in honours.
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6.—During the year the classes in Accountancy and Law have been continued, and the Committee trust that these classes, which now make provision for tuition in elementary accountancy, for first year men, will continue to be well supported.

C. LESLIE CUMMINS,

Chairman.

Dr. INCOME AND EXPENDITURE ACCOUNT for the Year ending April 30th 1906.**Cr.**

<i>Expenditure.</i>			<i>Income.</i>		
	£	s d		£	s d
To Printing, Stationery, Secretarial Expenses, &c. ..	8	13 7	By Subscriptions—		
Subscription to <i>The Accountant</i> ..	1	4 0	31 Honorary Members at 10s. 6d. each ..	16	5 6
Law and Accountancy Classes, Lecturers' Fees, Expenses, Printing, &c. ..	65	14 1	37 Ordinary Members at 10s. 6d. each ..	19	8 6
Expenses of Evening Lectures and Joint Debates ..	8	10 3	6 Entrance Fees at 5s. each ..	1	10 0
Cost of <i>The Accountants' Journal</i> (see contra) ..	4	5 5			
Rent of Room at Albion Chambers ..	5	0 0	Law and Accountancy Classes—		
Contribution to "The Working Union of C. A. Students' Societies," and Expenses of Members attending meetings ..	3	15 6	Fees received from Students ..	28	7 0
Prizes for places taken at Institute Examinations ..	4	4 0	Grant from Institute (estimated) ..	32	5 0
Balance carried to Balance Sheet ..	0	13 2			
	£102	0 0	Sale of <i>The Accountants' Journal</i> —		
			24 Subscriptions at 3s. 6d. each ..		4 4 0
				£102	0 0

Dr. LIBRARY FUND for the Year ending April 30th 1906.**Cr.**

	£	s d		£	s d
To Depreciation of Books, 20 per cent. on £26 2s. 6d. ..	5	4 6	By Balance as per last Account ..	55	15 1
Balance carried to Balance Sheet ..	50	10 7			
	£55	15 1		£55	15 1

Dr. BALANCE SHEET April 30th 1906.**Cr.**

	£	s d		£	s d
To Sundry Creditors for Law and Accountancy Classes, Rent, Stationery, &c. ..	70	18 4	By Library—		
Library Fund—			Value of Books at April 30th 1905, as per last Balance Sheet ..	25	5 10
Balance as per above Account ..	50	10 7	Additions during the Year ..	0	16 8
Income and Expenditure Account—					
Surplus as per last Account ..	20	0 5	Less Depreciation at 20 per cent. ..	26	2 6
Add Surplus on this year's working as per above Account ..	0	13 2		5	4 6
	20	13 7	Library Furniture and Fittings ..		20 18 0
	£142	2 6	Sundry Debtors—		5 10 6
			Grant from Institute (estimated) ..	32	5 0
			Outstanding Subscriptions, &c. ..	2	9 0
			Other Debtors ..	0	3 5
				34	17 5
			Cash at Bank ..	79	1 5
			Cash in hands of Secretary and Treasurer ..	1	15 2
				80	16 7
				£142	2 6

Bristol, June 19th 1906.

Examined and found correct.

J. J. PARKER, A.C.A.,
H. W. HORNER, } Auditors.

The report and accounts, as circulated, and the Librarian's report were adopted.

A vote of thanks was accorded to the retiring President, Vice-President, and officers.

The following were elected for the ensuing year :—

President—Mr. W. Vaughan Jenkins, F.C.A.

Vice-Presidents—Messrs. S. Pim Jackson, A.C.A., and Wilfrid Grace, A.C.A.

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Committee—Messrs. C. L. Cummins, A.C.A., L. J. Coates, S. W. Cornwell, A. J. Gardner, H. C. Leonard, A.C.A., H. J. Woodfin, A.C.A.

Hon. Treasurer—Mr. R. A. Butt.

Hon. Secretary—Mr. C. F. A. Greenslade.

Hon. Librarian—Mr. H. A. Mansfield.

Hon. Auditors—Messrs. H. W. Horner and H. Ellett.

A unanimous vote of condolence was passed with the relatives of the late Mr. J. Hudson Smith, F.C.A., who had been a member of the Society since its commencement.

Company Law Amendment Committee.

Report of Committee.

To the Right Hon. David Lloyd-George, M.P., &c. &c.,
President of the Board of Trade.

Sir,

1.—By minute of the Board of Trade, dated the 8th of February 1905, this Committee was appointed "to inquire what amendments are necessary in the Acts relating to joint-stock companies, and to report to the Board of Trade." By a memorandum dated the 10th of February 1905, signed by Mr. George Stapylton Barnes, the Committee were informed that the reference to them had been framed in wide terms in order to prevent the exclusion of any subject which any member of the Committee might wish to bring before his fellow members, and the Board of Trade expressed the assurance "that the Committee will consider generally by what means joint-stock enterprise can best be fostered and encouraged, as well as the means by which illegitimate practices may be most effectually repressed." The attention of the Committee was by the said memorandum particularly directed to the following questions:—

- (a) The growing practice of issuing companies without a prospectus.
- (b) The registration outside the United Kingdom of companies carrying on business in England and appealing to English investors.
- (c) The extension of the provisions of the Companies Act, 1900, with regard to the registration of mortgages and charges so as to include all mortgages and charges as well as those created before as since 1st January 1901.
- (d) The amendment of Table A in the First Schedule to the Act of 1862.

2.—The present Lord Chancellor (Lord Loreburn), then Sir Robert Threshie Reid, G.C.M.G., K.C., M.P., was appointed Chairman of the Committee, and, until his resignation on accepting his present office, presided at all

the meetings. We desire to place on record our deep sense of the great obligations which we owe to his Lordship for his valuable services whilst on the Committee, and for his unfailing courtesy in the conduct of its deliberations.

3.—By minute of the 16th of December 1905 Mr. C. M. Warmington, K.C., was appointed Chairman of the Committee.

4.—It will, in our opinion, be convenient before stating the conclusions at which we have arrived on particular points, if, by way of preface, we define the attitude we have assumed in approaching the problem of company law reform. The magnitude of the interests involved in joint-stock enterprises in this country under the Companies Acts, 1862-1900, must be universally recognised. The company system inaugurated by the Act of 1862 has given an immense stimulus to commercial enterprise. Under this system British trade has widely developed, and the wealth of the community has been largely augmented. The number of companies now carrying on business under the Acts is more than 40,000. The capital embarked in the undertakings of these companies exceeds, according to the most recent Board of Trade Return, £2,000,000,000.

5.—The area in which these companies operate is not limited to any particular country; no doubt the bulk of them carry on business in the United Kingdom, but many, including some of great magnitude, operate in India, the Colonies, and foreign countries.

6.—In the result these companies include a large and increasing proportion of the business concerns, both large and small, of the country, and especially banking, discount, and financial businesses, breweries, collieries, manufacturing concerns of all kinds, tramways, railways (in India and foreign countries), shipbuilding and ship-owning, land and building, and mining undertakings.

7.—The debentures and debenture stocks of these companies aggregate some hundreds of millions of pounds. The number of persons interested as shareholders, debenture-holders, stockholders, customers, creditors, and employees is legion.

8.—Applying the information furnished to us from the personal experience of some members of the Committee, and that afforded by the statements received from Chambers of Commerce throughout the country, we are satisfied that the great majority of these companies are honestly formed and conducted. Convinced therefore of the beneficial operation of the present company system, we have felt that legislation affecting interests of such magnitude demands great caution, and that whilst it is desirable by all reasonable means to repress fraud, the utmost care should be taken not unduly to curtail the facilities and advantages under which honest enterprise has for so many years flourished and still flourishes.

Recent Diminution of Company Registration.

9.—One of the matters considered by us is the diminution in company registration during the last five years.

10.—Since 1896 there has been a very remarkable change in the progress of company enterprise. Comparing 1896 with 1905, the number of companies registered has slightly diminished, but the total amount of the nominal capital has diminished in a much more marked degree during this period, the total capital of the companies registered in the latter year being very little more than one-third of what it was ten years previously. Again, from the year 1901 down to 1904, the number of companies issuing a prospectus or invitation to the public to subscribe for their shares shows a falling-off year by year, and during these years an extraordinary decrease is shown in their nominal capital, the total being between 12 and 13 millions in the year 1904, as compared with upwards of 48 millions in the year 1901. In other words, there was,

in the period referred to, a decreasing amount of investment in new companies and many fewer prospectuses. There has also been some tendency to attempt to escape the jurisdiction of the Courts by registering outside of the United Kingdom. On the other hand, there has been no diminution in the number of liquidations or, so far as can be ascertained, in the pecuniary loss caused by these liquidations. The figures for the year 1905, however, show an increase alike in the number, and in the amount of the nominal capital, of companies registered during the year, and an increase also in the proportion of companies issuing a prospectus.

11.—In the Fourteenth General Annual Report of the Board of Trade, ordered by the House of Commons to be printed on the 18th of July 1905, may be found two tables of so much importance in this connection that we think it better to print them here, with the figures added for the year 1905.

COMPARATIVE FIGURES relating to COMPANIES REGISTERED during the Years 1901, 1902, 1903, 1904, and 1905.

Year	I.—Number and Nominal Capital of Companies which filed a Prospectus and to which Certificates that they were entitled to commence business were granted		II.—Number and Nominal Capital of Companies which filed a Prospectus but to which Certificates that they were entitled to commence business were not granted		III.—Number and Nominal Capital of Companies which filed a Declaration that the Company "does not issue" any invitation to the public "to subscribe for its shares"		IV.—Number and Nominal Capital of Companies which filed neither a Prospectus nor a Declaration	
	Number	Nominal Capital	Number	Nominal Capital	Number	Nominal Capital	Number	Nominal Capital
1901.. .. .	369	£48,676,500	76	£3,566,857	2,483	£69,646,072	204	£15,596,012
Percentage of Total Number and Capital respectively ..	11·78	38·41	2·43	2·59	79·28	80·08	6·51	11·35
1902.. .. .	358	26,753,544	91	2,527,075	2,966	100,509,266	181	17,773,263
Percentage of Total Number and Capital respectively ..	9·96	18·14	2·53	1·71	82·48	68·11	5·03	12·04
1903.. .. .	306	20,553,865	86	3,267,510	3,146	86,697,019	154	5,138,970
Percentage of Total Number and Capital respectively ..	8·29	17·77	2·33	2·82	85·21	74·06	4·17	4·45
1904.. .. .	246	12,798,795	53	1,835,075	3,069	64,867,515	110	4,413,303
Percentage of Total Number and Capital respectively ..	7·07	18·28	1·52	2·17	88·24	77·80	3·16	5·25
1905.. .. .	320	20,670,760	75	2,870,500	3,426	82,752,256	146	2,361,527
Percentage of Total Number and Capital respectively ..	8·07	19·03	1·89	2·64	86·36	76·16	3·68	2·17

NUMBER OF COMPANIES REGISTERED during the period 1896-1905, and Total Amount of their Nominal Capital.

—	Number of Companies Registered	Total Amount of Nominal Capital	Average Amount of Nominal Capital of each Company
1896	4,291	£285,261,077	£66,479
1897	4,750	269,391,715	56,714
1898	4,651	247,718,332	53,261
1899	4,528	229,570,438	50,700
1900	4,509	206,828,941	45,870
1901	3,132	137,479,441	43,895
1902	3,596	147,563,148	41,035
1903	3,692	115,657,364	31,326
1904	3,478	83,914,688	24,127
1905	3,967	108,655,043	27,389

12.—From the figures in the second of the above tables it appears that, in point of number, the maximum of companies registered in any one of these ten years was 4,750 in 1897 and the minimum was 3,132 in 1901. The first marked decline was from 4,509 in the year 1900 to 3,132 in the year 1901, from which date, with the exception of the year 1904, there has been again a rise in the number of companies registered annually, and in the last year, 1905, the number of companies registered was 3,967.

13.—But if the total amount of nominal capital, and not the number of companies be regarded, the decrease from 1896 to 1905 is enormous. In point of capital the

maximum registered in any year from 1896 to 1905 is £285,000,000 in 1896, the minimum is £83,000,000 in 1904, and, with one slight exception, the diminution of capital has been continuous throughout that period. Roughly speaking, there was a diminution of about £20,000,000 a year from 1896 down to the year 1900 inclusive, and then the pace of diminution was accelerated until 1904, when the total amount of nominal capital of companies registered in that year fell to £83,000,000. The figures for the year 1905 show an increase in each column of the table, but it is impossible to ignore the significance of the figures as a whole. They show that, although the number of companies registered has declined, the capital of companies registered has declined out of all proportion to the number, and that although some cause was operating to diminish the capital as early as 1897, some further cause came into operation in 1900, with the results indicated in the table.

14.—A comparison of the details of the companies registered during the same period, which are given in the table on p. 104 of the Appendix, showing the amounts of the capital of the various classes in such companies, indicates that in companies below the line of £20,000 nominal capital there was a marked increase in number up to and including 1897. During 1898 and 1899 the number remained practically stationary. In 1900 the very small companies under £5,000 nominal capital increased largely, while those between £5,000 and £20,000 slightly diminished. In 1901 there was a marked diminution in all companies under £20,000 nominal capital, and from that date onwards they have again increased. In the case of companies with a nominal capital exceeding £20,000 the tendency to decrease in number first showed itself in the year 1898. The decrease continued in 1899 and 1900, though not very markedly. From 1900 onwards the diminution in the number of these large companies above £20,000 nominal capital has been steady and continuous until in 1904 they reached their lowest number, far below that of 1896.

15.—The conclusions from this general view seem to be that some cause commenced to operate in the years 1898 and 1899 which retarded the increase in the number of small companies, and in the latter year slightly affected larger companies also. In 1900 some cause produced a further diminution in the numbers of large companies, but did not affect the smaller companies. In 1901 there was a very great diminution in the total capital invested in new companies (£137,000,000, as compared with £206,000,000 in the preceding year), together with a very marked diminution in the number of all companies registered, large and small alike. In 1902, 1903, and 1904, some causes have produced an immense fall in the total capital registered, but whereas all the small companies below

£20,000 nominal capital have steadily increased in number the larger companies above £20,000 nominal capital have steadily diminished during those years, and the larger the capital the greater has been the ratio in diminution.

16.—After much inquiry and careful consideration we have come to the conclusion that the diminution above referred to is due to several causes all co-operating.

(1) We think that the diminution has in part been caused by the great drain occasioned by the heavy loans which in 1899 and 1900 were, in consequence of the war, required for the public service. These loans largely diminished the capital available for investment.

(2) We think that the diminution is also in part caused by the extra duty on the registration of companies imposed by the Finance Act, 1899, which came into operation on the 20th of June of that year. By that Act the *ad valorem* duty chargeable on registration of a limited company was raised from 2s. to 5s. per £100 nominal capital.

(3) We think that the diminution has also been caused in part by the provisions of the Companies Act, 1900. On the 1st of January 1901 that Act came into operation, and largely added to the difficulties and risks of company registration and promotion, especially in the case of companies with large capital intended to be offered to the public for subscription. The small companies (say those registered with a capital under £20,000) are frequently private concerns, and obtain their capital by personal negotiation, and in many cases are merely the conversion of family concerns into companies without fresh capital being introduced. Such companies have not decreased in number since the Act of 1900, for we are informed that in that year there were registered 2,757 of such companies, and in 1905 2,833. Instances of the particular provisions of the Act of 1900 which have, in our opinion, operated to bring about the reduction referred to may be given as follows:—

The Act of 1900 introduced very stringent provisions in Section 10 as to the contents of the prospectus, and thereby made the issue of a prospectus more difficult and brought under new and heavy liabilities promoters and directors. This, no doubt, made many prudent and honest men decline to take the risk of accepting directorships, and rendered the promoter's task in organising his company more difficult. Further, the Act of 1900, whilst it allowed payment by the company of a commission for underwriting shares if fully disclosed in the prospectus, in the opinion of many prohibited the payment of such a commission by vendors out of the purchase consideration paid by the company, and thus upset what had theretofore been a common practice. Moreover, the section was supposed to have deprived

companies of the power they previously possessed, and utilised to a large extent, of giving the call on shares as a consideration for underwriting, and although this view of the operation of the Act was ultimately overruled by the House of Lords, it nevertheless had effect. Again, the section in effect precluded the payment of commission for underwriting on the reconstruction of companies. Such commissions had in the past been commonly paid, and thus great obstacles were placed in the way of reconstruction, and companies were driven to reconstruct abroad.

Again, on registration of a company with a capital of, say, £400,000 promoters had, under the Finance Act, 1899, to pay the registration fees amounting to upwards of £1,000; they were obliged under the Companies Act, 1900, to specify in the articles the minimum subscription, and if on publication of the prospectus the company did not float, the registration fees were lost; hence the promoters' risk was sensibly increased.

(4) We think, too, that various recent decisions on the Income-tax Act to the effect that a company registered or controlled in England and doing business abroad is liable to be taxed on the whole of its earnings whether made abroad or in the United Kingdom, and wherever its shareholders may be domiciled, have adversely affected the registration of companies in this country, and have led to their reconstruction so as to place them under Colonial or foreign law. These decisions have also to some extent encouraged the formation abroad of companies which might otherwise have been registered here.

(5) Lastly, we think that the diminution is also attributable, in some degree, to the fact that during 1896, 1897, and 1898, the capital of companies registered was abnormally increased by the favourable condition of the money market, and in 1900 by the desire to get on the register before the then pending Bill for the amendment of the Companies Acts was passed into law.

It may be also noted that in the years 1897, 1898, and 1899 many large industrial combines, involving an enormous capitalisation, were registered under the Companies Acts.

Diminishing use of Prospectus.

17.—A large and, up to last year, an increasing proportion of the companies registered did not on registration publish any prospectus. There are, however, now some signs of a disposition among promoters to revert to the use of a prospectus. The main reason for the disuse of the prospectus is probably to be traced to the lack of capital awaiting investment. Another reason may, we think, be found in the uneasiness which some directors feel in committing themselves to the series of statements required by Section 10 of the Companies Act, 1900, having

regard to the grave consequences which attach to any even unintentional misstatement. Many of these companies which issue no prospectus in the first instance make no offer of shares to the public, and therefore need no prospectus; but some of these private companies before long become public companies in the sense that their shares pass into the hands of the public. The *modus operandi* commonly adopted is for the vendor to take a large block of the shares credited as paid up as the consideration for the sale of his property to the company; sometimes reserving also as part of the consideration the right to call for further shares. This done, he proceeds to dispose of the shares or of the greater part of them in the stock markets or privately, the result being that a large body of shareholders is introduced into the company. In other cases the promoters and their friends take up the shares themselves and resell them on the Stock Exchange. In such cases, there being no prospectus, the information as to preliminary contracts, the amount of the purchase-money, and other material facts which would have been available if a prospectus had been duly issued and filed is not available to the buyer of the shares. No representation has in such a case been made by the company, and the buyer, therefore, has no redress, however fraudulent the circumstances of the formation of the company may be. It has been suggested by way of remedy for this that all companies not filing a prospectus before commencing business should be compelled to file a preliminary statement containing similar information to that required by Section 10 of the Companies Act, 1900, in a prospectus, and constituting a public document of which every buyer of, or subscriber for, the shares of the company would have constructive notice. Without being very sanguine as to the practical usefulness of such a statement, the majority of us are of opinion that it would be desirable to require such a statement to be made and filed with the Registrar, and that the statement should set forth, in substance, *mutatis mutandis*, all the various particulars required to be set forth under paragraphs (c) to (m) inclusive of Section 10 of the Companies Act, 1900, as proposed to be amended in this Report. The filing of such a statement, we think, would at least give to intending buyers of and subscribers for shares and to possible creditors the opportunity of informing themselves, if they choose, as to the character of the company; but of course there would be the danger that in some cases the preliminary statement would be filed at an early period for the purpose of avoiding inconvenient disclosure.

Registration of Companies Abroad and Foreign Companies Trading in England.

18.—We have considered the question whether any means can be adopted for discouraging the registration abroad of companies which appeal to English investors,

and conversely of encouraging the formation in the United Kingdom of companies which would in ordinary course be registered abroad. In the interest of British investors and of British trade generally it is, of course, desirable that as many companies as possible conducting enterprises abroad should be controlled from the United Kingdom. The promoter also finds it more convenient to register in the country where he has to get his capital—which is usually England—than in the country which is to be the scene of the company's operations; but this convenience will prevail or not according to the conditions on which the promoter finds that he can obtain registration. The facilities which exist—or did exist in this country—for the formation of companies here, as was pointed out by the Committee of 1895, presided over by Lord Davey, attracted in years past to this country a large amount of foreign enterprise and foreign business with very beneficial results. If this practice is changing, as would seem to be the case, and the promoter prefers to register outside the United Kingdom, the explanation may be that the conditions of registration are less onerous in those countries than in the United Kingdom—the law as to disclosure or the liability of directors less stringent—the stamp duty on capital less deterrent.

19.—We have further considered whether it would be possible or desirable to require foreign companies carrying on business here to register or to comply with any of the requirements of the Companies Act, 1900, as to prospectuses, or to make deposits here with a view to securing British creditors, but upon the whole we do not think that any of these expedients can with advantage be adopted. There are, however, a good many companies trading in England, and applying for English capital, which, though registered or incorporated abroad, make use of the distinctive word "Limited" as the last word of their name. There is some evidence—though not much—to show that such companies may at times obtain credit from people who assume from seeing the word "Limited" that the company is registered in England. The majority of us think that every foreign company having any place of business in this country should be required to file in England a verified copy, with a verified English translation, of its charter, statutes, or memorandum and articles of association, with the names of all directors and with the name of some person or persons resident in the United Kingdom authorised on the behalf of such company to accept service of process or any notices required to be served on such company, and so that the person so registered shall be the only person entitled to commence or authorise proceedings on behalf of such company in any Court in the United Kingdom. And that for default of complying with such requirement a penalty should be imposed. We also recommend that every such foreign

company shall file with the Registrar a verified copy of its annual Balance Sheet with a substantial penalty for default. We also think that a foreign company of this kind using the word "Limited" should, in any prospectus inviting subscriptions in the United Kingdom, state the company's place of origin, and should, when carrying on business in the United Kingdom, be compelled under penalty to put up its name with the place of origin on its business premises. Apart from this, we think that the various amendments in the Acts suggested in the further part of this Report will, if adopted, go far to remove the objections felt by promoters to register here.

Minimum Subscription.

20.—The Act of 1900, Section 4, contains provisions intended to check the practice of proceeding to allotment on an insufficient subscription, and with this view the Act requires, in the case of companies offering shares for public subscription, that the company's memorandum or articles shall fix, and its prospectus state, the minimum subscription on which the directors may proceed to allotment. Until this minimum subscription has been obtained, and the application money paid up, and a certificate of the Registrar that these and other conditions have been complied with, a company which invites public subscriptions is not permitted to commence business. The tendency to dispense with the use of the prospectus before alluded to has had the effect of minimising the benefit of these statutory provisions; for a company which issues no prospectus does not come within the section. We therefore think it desirable to extend the minimum subscription provision so as to make it applicable to all limited companies.

Contents of Prospectus.

21.—We have carefully considered Section 10 of the Companies Act, 1900, and the elaborate provisions embodied in it, as to the contents of prospectuses offering shares or debentures for subscription, and we consider that the section should be modified in certain respects so as to remove difficulties which have been met with in practice. Sub-section (1) of Section 10 is printed below, with the proposed amendments indicated in italics:—

10.—(1) Every prospectus issued by or on behalf of the company, or by or on behalf of any person who is or has been engaged or interested in the formation of the company, must state—

(a) The contents of the memorandum of association, with the names, descriptions, and addresses of the signatories, and the number of shares subscribed for by them respectively; and the number of founders' or management or *deferred* shares, if any, and the nature and extent of the interest of the holders in the property and profits of the company; and

(b) The number of shares, if any, fixed by the articles of association as the qualification of a director, and any provision in the articles of association as to the remuneration of the directors; and

(c) The names, descriptions, and addresses of the directors or proposed directors; and

(d) The minimum subscription on which the directors may proceed to allotment, and the amount payable on application and allotment on each share; and in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment *made within the preceding two years*, and the amount actually allotted; and the amount, if any, paid on such shares; and

(e) The number and amount of shares and debentures *which within the two preceding years have been issued*, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which such shares or debentures have been issued or are proposed or intended to be issued; and

(f) The names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of publication of the prospectus, and the amount payable in cash, shares, or debentures, to the vendor, and where there is more than one separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor, *provided that where the vendors or any of them are a firm the members thereof are not to be considered separate vendors*; and

(g) The amount (if any) paid or payable as purchase money in cash, shares, or debentures, of any such property as aforesaid, specifying the amount, *if any*, payable for goodwill; and

(h) The amount (if any) paid *within the two preceding years* or payable as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares or debentures in the company, or the rate of any such commission, *provided that it shall not be necessary to state the commission payable to sub-underwriters*; and

(i) The amount or estimated amount of preliminary expenses; and

(j) The amount paid *within the two preceding years* or intended to be paid to any promoter and the consideration for any such payment; and

(k) The dates of and parties to every material contract, and a reasonable time and place at which any material

contract or a copy thereof may be inspected: Provided that this requirement shall not apply to a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company, or to any contract entered into more than *two years* before the date of publication of the prospectus; and

(l) The names and addresses of the auditors (if any) of the company; and

(m) Full particulars of the nature and extent of the interest (if any) of every director in the promotion of or in the property proposed to be acquired by the company, with a statement of all sums paid or agreed to be paid to him in cash or shares or otherwise by any person either to induce him to become or to qualify him as a director or otherwise for services rendered by him in connection with the *promotion or formation* of the company.

Other modifications of this section which we recommend will be found in paragraph 70.

22.—With regard to paragraph (k) dealing with the disclosure of contracts. We are satisfied that genuine difficulty has in fact been experienced by directors in determining what are and what are not material contracts for the purposes of the section. To make himself perfectly safe it may be necessary for a director to set out a long series of miscellaneous contracts, and prospectuses have been shown to the Committee in which, to avoid all possible cavil, the dates and parties to scores of contracts, material and immaterial alike, have been printed in small type, making the prospectus in a great measure unintelligible, and defeating the object of the enactment.

23.—It would, no doubt, be convenient if it were possible to define what are material contracts within paragraph (k) of Section 10, Sub-section (1), but we have not been able to agree upon any satisfactory definition of the expression, and in the circumstances it seems to us safer and better in the interests of all concerned to leave the expression as it stands, bearing in mind that directors and promoters who make an honest mistake of fact are afforded protection by Sub-section (7), paragraph (d), of the same section.

24.—We have already expressed an opinion that the number of companies into the formation or management of which fraud enters is small in comparison with the number of sound undertakings registered and working under the Acts, and this being so the dishonest director is the exception. We think that nothing could be more unfortunate than that provisions designed for checking or punishing dishonesty or gross negligence should be turned into an engine of oppression for honest and prudent men. Now there are a variety of sections in the Companies Acts which impose upon directors and other persons connected with a company the duty of doing certain acts, making

certain disclosures and returns, and furnishing certain information at the risk of incurring a penalty or liability to damages. It would not in our opinion be either safe or wise to diminish these obligations otherwise than as in this Report suggested, but we do think that it would be both safe and wise to make some amendment in the law which shall prevent such penal provisions from operating unfairly. We therefore recommend that the law be amended:—

- (1) By giving power to the Court to relieve any director or promoter from liability for breach of any duty imposed on him by the Companies Acts, 1862 to 1900, provided that the breach has been occasioned by honest oversight, inadvertence, or error of judgment on his part.
- (2) By giving the Court power, in an action for negligence or breach of trust against a director, to relieve him from his liability on such terms as the Court may consider proper, where the Court is satisfied that he has acted honestly and reasonably.

An analogous power, we may point out, has been already given to the Court in the case of trustees by Section 3 (1), (2), of the Judicial Trustees Act, 1896.

Underwriting Commission and Discount.

25.—It was a cardinal principle of the Act of 1862 that in the case of a limited company the nominal amount of the shares was payable in full, either in cash or its equivalent. Such payment has by the House of Lords been described as the price of the privilege of limited liability. (*Oregum Gold Mining Co. v. Roper* (1892, A.C. 145).) It was wholly inconsistent with this principle that a company limited by shares should issue its shares at a discount, or should pay to a subscriber out of its capital a commission for subscribing for shares at par. There were, moreover, judicial *dicta* of high authority making it very doubtful whether a company could legally pay out of capital any commission or sum for underwriting shares in its capital, or procuring subscribers for the same. The payment to a broker of an ordinary brokerage for his services in placing shares stands on a somewhat different footing, and such brokerage to a reasonable amount (2½ per cent.) was allowed in *Metropolitan Coal Consumers' Association v. Scrimgeour* (1895, 2 Q.B. 604). These difficulties, however, did not prevent underwriting commission being paid in practice; for it was paid, not by the company directly, but by the company's vendor out of the purchase consideration in cash and shares received by him from the company—that is to say, the consideration was increased or “loaded” by the amount to be paid for commission by the vendor.

26.—In this state of things the Companies Act, 1900, was passed, which, by Section 8, enabled a company,

“upon an offer of shares to the public for subscription,” to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares, provided that the payment of the commission, and the amount or rate per cent. of the commission, were authorised by the articles and disclosed in the prospectus, and that the commission did not exceed the amount or rate so authorised. The same section provided that, save as aforesaid, no company should apply any of its shares or capital money either directly or indirectly in payment of any commission, discount or allowance for any of the above purposes, whether the shares or money were so applied by being added to the purchase money of any property acquired by the company, or to the contract price of any work to be executed for the company, or the money were paid out of the nominal purchase money or contract price or otherwise. But the section was not to affect the power of any company to pay such brokerage as it had before been lawful for the company to pay. We are satisfied that this concession of a power to pay commission was judicious, and, speaking generally, the power has not been abused. While there is nothing in itself objectionable in the payment of a commission for subscribing, underwriting, or procuring subscribers for shares, provided that due publicity is secured, it must be apparent that what is sanctioned in Section 8 is, in its financial results, equivalent to the issue of shares at a discount, and some of us think that in these circumstances the simpler and more straightforward course would be to authorise in express terms the issue at a discount of shares whether in the original capital or created upon an increase of capital. Upon the whole, however, we are not disposed, as regards shares in the original capital, to accept this suggestion—not because we think that there is in substance any real difference between the issuing of shares at a discount and the payment to the subscribers for shares of a commission for subscribing, but because we think it undesirable and unnecessary to facilitate the issue of shares at a discount at the time when a company is formed. We think, however, that there is a considerable difference between that and the issue of shares at a discount when a company has for a time carried on business, and, desiring to raise further capital, finds that its shares stand below par in the market. In such circumstances we think that as in the case of companies to which the Companies Clauses Consolidation Acts apply, it should be permissible to raise further capital by the issue of shares at a discount, provided that due publicity is ensured as in the case of the payment of a commission for subscribing for shares. And we further consider that, to prevent evasion of the law, it would be necessary to enact that the company must have

carried on business to a substantial extent for not less than twelve months before making the issue.

27.—We also think that where debentures or debenture stock are issued at a discount, or a commission is paid for subscribing or underwriting them, the same particulars should be filed with the Registrar of Joint Stock Companies as in the case of share capital.

28.—It has been suggested to us that it might be desirable to limit the amount of commission payable under Section 8, and in support of this view cases have been brought to our notice in which 70 and (in a few instances) 80 per cent. of the face value of the shares has been so paid or offered. In such cases capital is not subscribed by the public on the prospectus, but the underwriters, taking up the shares at a fraction of their nominal value, sell them subsequently at whatever price they can obtain. But we think that cases of this character are rare. Nor is there any reason, in our opinion, for applying statutory prohibitions to speculative enterprises if people choose to enter into them. Some speculative enterprises are highly meritorious. Even if a maximum limit on the amount of commission is desirable, where is the line to be drawn? Any statutory limit must needs be an arbitrary one. The better course seems therefore to be to leave each company, as the best judge of its own necessities, to fix the rate of commission for itself, provided only that there is full disclosure. By way of assuring the fullest publicity, we consider that the amount paid for underwriting commission should not only be authorised by the articles and stated in the prospectus, but should also be stated in the annual summary published next after the payment or agreement to pay such commission, and in the annual Balance Sheet until written off.

29.—The Act of 1900, as has been pointed out, legalises the payment of commission only by the company itself; any indirect payment by the company is prohibited. Hence a vendor who sells his property to a company for a specified sum cannot, in the opinion of many, with safety apply any portion of the purchase-price in payment of commission, seeing that such payment might be held to fall within the words of prohibition contained in Sub-section (2) of Section 8. We think that the section should be amended in this respect and that there should be no objection to a vendor, promoter, or other person, who receives payment in money or shares from a company, applying any part thereof in payment of commission for subscribing or underwriting shares, provided, as in the case of the company, that there is authority for and full disclosure of the payment.

30.—We think, too, that the section should be amended so as to allow of payment of commission where there is no offer of shares to the public. There are many cases in which it may be desirable that a company should be able to offer subscribers a commission for taking up shares, or for underwriting shares, even though no offer is made of those shares

to the public; but this should only be allowed if it is authorised by the articles and a statement of the amount paid or to be paid is filed with the Registrar of Joint Stock Companies.

31.—In the case, too, of a reconstruction, we are of opinion that underwriting commission should be allowed in respect of the placing of the shares which are to be offered to the shareholders in the old company, similar disclosure, of course, being made. Such underwriting commission was constantly paid before the Companies Act, 1900, and much inconvenience has arisen from the disallowance of such commission by Section 8. In these cases of reconstruction, as is well known, an issue of shares in a new company is made to the old shareholders, or such of them as will accept, and it has been held that the old shareholders, however large the number, are not the public, yet for the success of a reconstruction it is in many cases essential that the whole or the greater part of the shares offered to the old shareholders should be subscribed.

Protection of Unsecured Creditors.

Publication of Balance Sheets and other Documents.

32.—Limited companies, it is hardly necessary to say, enjoy no immunity from insolvency, and when a limited company becomes insolvent its unsecured creditors undoubtedly often sustain heavy losses. But such losses—whether the result of misconduct or misfortune on the insolvent's part—are incident to all dealings with traders, whether incorporated or unincorporated. The Legislature cannot insure against such losses. It cannot, in the case of trading companies, secure skilful management or success in speculative enterprises. Those who choose to deal with limited companies must take the risk of doing so, must make their own inquiries, and act on their own judgment.

33.—All the Legislature can do is to give those who may be minded to deal with a limited capital a fair opportunity of informing themselves what is the constitution of the company, what is the amount of its subscribed and paid-up capital, who are the persons bound to furnish that capital, and how far that capital has been mortgaged or charged, and this the Acts do. They oblige the company to use the word "limited" everywhere and on all occasions as part of its name by way of warning to anyone dealing with the company that its limited capital, so far as uncalled, and apart from its free assets, is all that will be available for any claim which he may have against the company. They oblige the company to keep a Register of Members to show who are the persons responsible for the unpaid capital. They oblige a company to file at Somerset House its memorandum and articles of association and copies of all special resolutions, every prospectus issued by the company, and particulars of all the shares from time to time allotted, and of all contracts for the issue of shares for a consideration other than cash. They oblige a company to register

particulars of all mortgages and charges by way of floating security, or to secure debentures or debenture stock, or upon uncalled capital, or upon chattels within the Bills of Sale Act, and all documents filed at Somerset House they give a right to any of the public to inspect. They oblige a company to make annual returns of holdings and transfers of shares, and various other returns. Large as are these facilities—if creditors would avail themselves of them—for obtaining information about a limited company, we consider that the information available is still inadequate, and we recommend that for the protection of persons who may deal with a company, and may become its creditors, every limited company ought to be required to file periodically a statement of its affairs in the form of a Balance Sheet, containing a summary of its capital, its liabilities, and its assets, giving such particulars as may generally disclose the nature of such liabilities and assets, and how the values at which the fixed assets stand are arrived at. Such Balance Sheet should be examined and reported upon by the company's auditors. We do not intend that such Balance Sheet should include a statement of profit and loss. Although it has been objected that filing such a Balance Sheet would be detrimental to companies by giving some information as to their profits, and so stimulating competition, we consider that such a Balance Sheet should be filed annually reserving the question as regards private companies to be dealt with hereafter in paragraph 46.

Unsecured Creditors and Debenture-Holders.

34.—Mortgages and charges, and especially floating charges, are another alleged grievance of unsecured creditors. Such creditors, it is said, are unable to ascertain how far the assets are mortgaged or charged owing to defects in both schemes of registration under Section 43 of the Companies Act, 1862, and Section 14 of the Companies Act, 1900. The Register of Mortgages and Charges required to be kept under Section 43 is not open to public inspection, and the Register to be kept under Section 14, though open to public inspection, is incomplete, disclosing as it does only certain classes of mortgages and charges by companies. We think that on both these points the law requires amendment: we think that the Register to be kept under Section 43 of the Act of 1862 should be open to public inspection, and that the Register to be kept under Section 14 of the Act of 1900 should be made more comprehensive, as indicated in paragraphs 36 and 37. These modifications of the law, we think, coupled with the other modifications suggested in this report, would go far to remove all reasonable cause for complaint on the part of unsecured creditors.

Mortgages and Charges.

35.—Our attention has been drawn to the necessity of some changes in the law relating to mortgages and charges,

and to the registration of mortgages and charges with a view to protecting creditors. It may be as well to state shortly some features of the law in relation to mortgages and charges created by companies, seeing that it differs in some respect from the law relating to individual traders. The Act of 1862 provided in Section 43 for the keeping by companies of a register of all mortgages and charges specifically affecting the property of the company, and for inspection thereof by any creditor or member, with a penalty for default in allowing such inspection, but it was ultimately held that non-registration did not affect the validity or priority of any charge, and accordingly there was no positive certainty that the Register would truly state the position. Moreover, the penalty for non-compliance with this section was rarely exacted, and practically, therefore, little reliance could be placed on the Register thus provided for. Further, shortly after 1862 a novel kind of security came into general use, familiarly known as a "floating charge," which does not directly affect any specific property. Under these circumstances the Act of 1900 was passed. Section 14 of that Act requires four classes of mortgage or charge to be registered and open to public inspection. They are to be registered within twenty-one days after their creation, and in default are to be void against the liquidator or any creditor of the company. The four classes of mortgages or charges are (1) those securing any issue of debentures or debenture stock; (2) those affecting uncalled capital; (3) those which, if executed by an individual, would operate as a bill of sale; and (4) those which contain floating charges. But the section does not apply to any mortgage or charge created before the commencement of the Act (1st January 1901), and it leaves specific mortgages and charges on landed property and book debts untouched.

36.—We have come to the conclusion that the Act of 1900 ought to be amended so that the Register should give information as to unsatisfied mortgages and charges created before 1st January 1901. It would not, however, be practicable to require that debentures, or certificates of debenture stock, issued by the company before that date should be indorsed under Section 14, Sub-section (6), nor would it be just to enact that any securities created before 1st January 1901 should lose their priority by reason of omission to register, for holders of old securities cannot be expected to be on the alert, and ought not to forfeit any of their rights because their debtors fail to obey a newly-made law. But we think that a statutory duty should be imposed upon every company to cause entry to be made on the Register of the total unsatisfied debt secured by mortgages or charges which would have required registration had they been created since 1st January 1901, and compliance ought to be enforced by a substantial penalty.

(To be continued.)

Personal.

MESSRS. WILKINSON, RECKITT, WILLIAMS & Co., Certified Public Accountants, of New York, Philadelphia, and Chicago, announce that they have admitted into partnership Messrs. HAROLD BENINGTON, A.C.A., WILLIAM AITKEN MILLIGAN, C.P.A., ALBERT WARREN RUGG, C.P.A. The firm name will remain unchanged.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, July 6th, was 150, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 74; Deeds of Arrangement registered, 76. The respective numbers in the corresponding week of last year were: Bankruptcies, 72; Deeds of Arrangement, 79—total, 151; being a decrease of 1. The total number of commercial failures recorded during the 27 weeks of the present year is 4,470; the total number recorded in the corresponding 27 weeks of last year was 4,727, showing a decrease of 257.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, July 6th, was 167. The number in the corresponding week of last year was 165, showing an increase of 2. The total number filed during the 27 weeks of the present year is 4,040; the total number filed in the corresponding 27 weeks of last year was 4,451, showing a decrease of 411.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, July 6th, amounted to £772,086, by way of addition to £1,048,275, previously issued by the same companies. The amount registered in the corresponding week of last year was £1,608,413, showing a decrease of £836,327. The total amount registered during the 27 weeks of the present year was £43,993,692 (in addition to the issues in previous years by the same companies), as compared with £40,519,141 for the corresponding 27 weeks in 1905, showing an increase of £3,474,551.

The Profession in Scotland.

Personal.

Messrs. Thomson, Jackson, Gourlay & Taylor, C.A., of 24 George Square, Glasgow, announce that they have assumed as partners Mr. David Taylor, C.A., and Mr. Thomas Jackson, Junr., C.A. (sons of their two senior partners), both of whom were trained in their office, and have been with them for a number of years. The style of the firm will remain unchanged.

COURT OF SESSION.

Edinburgh—Outer House.

Before Lord Ardwall.

July 4.

Thomas Macdonald v. The National Mutual Life Association of Australasia, Lim.

Life Insurance—Assured Assigns Policy for Nominal Consideration before Policy is Constituted—False Statements in Proposal.

In this action Thomas Macdonald, auctioneer, Edinburgh, as assignee under an assignation granted on 12th November 1903 by the Rev. Robert George Fraser, 12 Albert Terrace, Musselburgh, who died on 18th November 1905, sued the National Mutual Life Association of Australasia, Lim., Cheapside, London, for £500, the sum said to be due under a policy of insurance on the life of the deceased Mr. Fraser. The policy was dated 2nd October 1903, and on 12th November 1903, before it had been issued, was assigned to the pursuer in consideration of £5 paid by him to the insured. Payment was refused by the defenders on two grounds. They maintained that the contract of insurance between them and the deceased and the assignation of the contract to the pursuer for a nominal consideration before the policy was issued constituted a violation of the terms of the Act 14 George III., cap. 48, and that, therefore, the policy was null and void. They also said that the proposal on which the policy proceeded, and which formed part of the contract, contained false statements, and that, therefore, in accordance with the conditions in the policy, the policy was void.

Lord Ardwall said he was prepared to assaillie the defenders, with expenses, but delayed issuing his interlocutor until counsel for the defenders had an opportunity of consulting his clients with regard to the repayment of the premiums paid by the pursuer. His Lordship said that the deceased Mr. Fraser, who had previously had deal-

ings with Mr. Barnes, an insurance canvasser and broker, applied to him to procure him a policy for £500, and a policy was finally arranged with the defenders through Mr. Barnes' agency. In accordance with the invariable practice, the defenders would not issue the policy until they received payment of the first premium, amounting to £59 10s. 5d. At the time the arrangements for the policy were made Mr. Fraser was apparently possessed of no money whatever, certainly, and that was perhaps sufficient for present purposes, not enough to pay the premium. It was said that he had an annuity of £120 a year, and occasionally made some money by painting and selling pictures. It did not appear when he last did that, but at the time of applying for this insurance he was in trouble with his bankers, and there was evidence to the effect that he was so badly off that he had not the money to pay his train fare to Edinburgh from Musselburgh. His sole object in entering into the policy was to raise money on it. He accordingly entrusted the matter to Mr. Barnes, who, of course, had a personal interest to have the matter carried through. Mr. Barnes, in search of a purchaser who might buy the policy and pay the premium, called on Mr. Glass, solicitor, the pursuer's agent in this action, and asked him if he could suggest any purchaser to him. Mr. Glass suggested the pursuer, who apparently was accustomed to purchase all sorts of things. Mr. Barnes accordingly waited upon Mr. Macdonald and induced him to purchase the policy for £5, and he also paid £59 10s. 5d. for the first premium. The pursuer maintained that the transaction was not struck at by the statute in respect that the insurance was not made by the pursuer, but by Mr. Fraser, who, of course, had an interest in his own life, and that the contract having been made with him, the subsequent assignment of it to the pursuer for the sum of £5 did not affect the validity of the insurance. His Lordship was of opinion that the present was a case struck at by the Act, and that to hold that it was not would be to open the door to all sorts of gaming and wagering on life policies with impunity. The Act prohibited insurances wherein the "person or persons for whose use, benefit, or on whose account such policy or policies shall be made shall have no interest or by way of gaming or wagering," and the Act further provided that every insurance contrary "to the true intent and meaning thereof" shall be null and void. The question accordingly arose on whose account this policy was made? The contract of assurance could not be said to have been made till the policy was issued; but before the policy was issued the whole benefit of the transaction had been made over to the pursuer, and putting aside the paltry sum of £5, which he practically received for lending his name to the transaction. Mr. Fraser never had any interest in the policy whatever. It never was truly his property, because before it was issued he had

parted with the right to it, and in respect of his doing so the money for the first premium, which he could never have found himself, was paid by the pursuer. His Lordship thought accordingly it must be said in the words of the statute that the pursuer was the person for whose use and benefit and on whose account the policy was made and issued, and it was not alleged that the pursuer had any interest in the life of the Rev. Mr. Fraser, whom he said he did not know. His Lordship accordingly held that this was a contract of insurance contrary to the true intent and meaning of the Act quoted. He considered that the transaction was in its essence nothing more than a speculation or wager by the pursuer on the life of Mr. Fraser, which perhaps Mr. Barnes, Mr. Glass, and the pursuer himself had come to think was not so good a life as appeared from the medical reports. His Lordship was also of opinion that the second ground of defence—namely, that the proposal on which the policy sued on proceeded contained false statements—had been established, and that the policy must be held to be void.

BANFF SHERIFF COURT.

Mrs. Third v. William Third (James Ross's Trustee).

Sequestration—Trustee's Deliverance—Bank Guarantor Refused Ranking for Amount of Guarantee Paid—Bank Granted Ranking for full Amount of Debt.

Sheriff Reid has issued his decision in the appeal raised in the Banff Sheriff Court at the instance of Mrs. Third, Braemar Place, Aberdeen, against the deliverance of the trustee, Mr. William Robb, solicitor, Keith, on the sequestered estates of James Ross, Mill of Towie, Botriphnie, refusing to rank the appellant for the sum guaranteed by her to the bank on behalf of the bankrupt and allowing the bank to rank for the full sum advanced by them. The interlocutor and note are as follows:—

Sustains the appeal; recalls the deliverance of the trustees appealed against; finds the appellant, Mrs. Eliza Jane Ross or Third, entitled to a ranking as an ordinary creditor to the extent of four hundred and sixty-four pounds eighteen shillings on the estate of the said James Ross, and appoints the respondent trustee to rank her accordingly; recalls the trustee's deliverance on the claim of the said Union Bank of Scotland, Lim., to the extent of four hundred and sixty-four pounds eighteen shillings; *quoad ultra* finds them entitled to a ranking as ordinary creditors for the balance of their claim amounting to three hundred and two pounds eleven shillings, and appoints the respondent trustee to rank them accordingly as ordinary creditors; finds the respondents, the said Union Bank of Scotland, Lim., liable in expenses to the appellant, Mrs. Eliza Jane Ross or Third, and *quoad ultra* finds no expenses

due to or by either party; allows an account of Mrs. Eliza Jane Ross or Third's expenses to be given in and remits the same when lodged to the auditor of Court to tax and report.

In a note the Sheriff states:—The appellant in this case appeals against a deliverance of the trustee on the sequestrated estate of James Ross refusing her a ranking in respect of £450 paid by her to the Union Bank on behalf of the bankrupt. The appellant was cautioner to the bank for the bankrupt, and at the date of the sequestration the bankrupt was due to the bank a sum of £767 9s., for which they lodged a claim in the sequestration, and have been ranked by the trustee for the full sum, although £450 of it has been admittedly paid by the appellant. Whether this deliverance of the trustee refusing the appellant a ranking is right or wrong depends on whether she was cautioner for the whole debt due to the bank, or only for the sum of £450. That, again, depends on the construction of the cautionary obligation granted by the appellant. If the appellant is cautioner merely for £450, and not for the whole debt, then she has the ordinary rights of a creditor and would be entitled to claim in the sequestration. If, on the other hand, she is a cautioner for the whole debt due to the bank, and not merely for £450, and the bank has lodged a claim for the whole debt, then she is not entitled to claim in the sequestration, and the trustee has rightly rejected her claim, as there cannot be a double ranking for the same debt. In a question between the appellant and the bank, on this construction the bank would be entitled to have its claim preferred in the sequestration. I am of opinion that on a sound construction of the cautionary obligation the appellant's liability thereunder to the bank is limited to £450 and interest, and that it ought not to be read, as is maintained by the bank, as an obligation for the whole debt due to it at the date of the sequestration, and that the appellant's liability was not to exceed £450. The obligation (which is in the form of a letter addressed by the appellant to the bank) authorises the bank to realise the securities conveyed to it by the appellant "for the purpose of repaying the amount due to you (the bank), such amount (that is, the amount due to the bank) not to exceed four hundred and fifty pounds sterling with interest due." As I read this obligation, the meaning of these words is that the appellant's obligation to the bank is limited to £450 and interest, and that she does not bind herself for the whole advances, whatever their amount, which may be made by the bank to the bankrupt. It was contended on behalf of the bank that the earlier part of the obligation points to liability for the whole debt, but the document must be read as a whole, and effect must be given to the words which in my judgment when read in their natural meaning limit the liability of the appellant to £450. If I am right in my construction

of the cautionary obligation I must assume that the words referred to were inserted by the appellant for the purpose of limiting her liability to £450. The case of *Allan v. Harvies* (Trs. 12R, 1141) was founded on in support of the trustee's deliverance, but the terms of the cautionary obligation there showed that the ordinary rights of a creditor belonging to the cautioner paying the debt were not to come into competition with the rights of the creditors of the bankrupt in claiming on the bankrupt estate for the full amount of his debt. The English cases of *Ellis v. Emmanuel* (23rd February 1876, L.R. 1, Exchequer Div. 157) and *Hobson v. Bass* (19th July 1871, L.R. 6 Ch. App. 792) also, I think, support the principle which I have given effect to in this case.

Bank Rate of Discount.

Sept. 28th 1905	..	..	..	..	..	..	4%
April 5th 1906	..	..	..	..	..	..	3½%
May 4th ..	..	..	..	..	..	..	4%
June 21st ..	..	..	..	..	..	..	3½%

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INSTITUTE OF CHARTERED ACCOUNTANTS.

LIST OF SUCCESSFUL CANDIDATES.

At the EXAMINATIONS held in MAY and JUNE 1906.

PRELIMINARY EXAMINATION.

(Candidates who obtained a certain number of marks, in Order of Merit)

Name	Where educated
WYKES, P. R. (<i>Prize</i>), Leicester	Charterhouse School, Godalming
HARLING, W., Manchester	Manchester Grammar School
MALONEY, E., London	Aske's Hatcham School
FENTON, M. P., London	Charterhouse School, Godalming
WILLIAMSON, A., Cambridge	Ley's School
MARSH, H. T., Birmingham	Private Tuition
SMITH, S. H., Bromley	Dulwich College
WOODS, R. H., Great Malvern	Worcester Cathedral, King's School
SCOTT, W., Cheadle, Hulme	Manchester Grammar School
WINN, R. H., Birmingham	Shrewsbury School
OWEN, P. J., Sheffield	Wesley College, Sheffield
SMITH, G., Nottingham	Stafford Grammar School
WEBB, F. D., Manchester	Manchester Grammar School
COOPER-KING, P. L., Egham	King's School, Canterbury

(In alphabetical order)

AKED, T. W., Halifax	Crossley and Porter Orphanage
BARKAS, P., Newcastle-upon-Tyne	Bootham School
BARKER, H., Liverpool	Liverpool College Middle School
BARNES, G. L., Woodford	King Edward VI. Middle School, Norwich
BARNES, H. J., London	Aske's Hatcham School
BATTERSBY, D., Manchester	Manchester Grammar School
BAYNE, E. G., London	Cholmeley School, Highgate
BENNETT, F., Urmston	Urmston Higher Grade Science and Art School
BENNETT, K. A. L., London	Merchant Taylors' School
BIDDOLPH, T. J., Manchester	Rossall School, Fleetwood
BOND, E. R., Penarth	Cardiff School of Commerce
BOOTH, H. R., Finchley	Chatham House, Ramsgate

(In alphabetical order)

Name	Where educated
BOX, A. H., Leytonstone	Cranbrook School, Kent
BREARLEY, T., Hull	Sedburgh College, Hull
BREWIS, E. A., Gosforth	Sedburgh College, Hull
BRIGG, G. L., London	King's College School, Wimbledon
BRISCOE, H., Heswall	Chester School of Commerce
BROTHERTON, L., Stockton-on-Tees	The College, Harrogate
BROWN, A. H. M., London	Dulwich College
BROWN, C. B., London	Bishop's Stortford College
CAIRNS, S. E., Nottingham	Nottingham High School
CALLAGHAN, K. F., London	Stoneyhurst College, near Blackburn
CHARLTON, G. H., London	Ebor School, Bexhill-on- Sea
CLARK, J. E., London	St. Thomas', Charterhouse
CLOVER, H. A., Southsea	Portsmouth Grammar School
COWELL, N. C., Newcastle-upon-Tyne	Victoria School, Newcastle-upon-Tyne
COZENS, P., Walsall	Taunton School
CRESSWELL, J., Penkridge, Staffs	Penkridge Schools
CROMIE, D. B., Liverpool	Merchant Taylors' School, Great Crosby
DAVIES, H. B., Chester	Chester Technical School
DIBDIN, C. E. R., New Brighton	Liscard High School
DUNN, C. H., London	Durban High School, Natal
EDSELL, A. R. K., Surbiton	Lord William's Grammar School, Thame
ESHELBY, A. D., Birkenhead	Charterhouse, Godalming
EVANS, R. M., Wylde Green	King Edward VI. High School, Birmingham
FAIRHEAD, C. W. T., London	Woodford House School, Birchington-on-Sea
FINCH, H., Pleasington, near Blackburn	Ushaw College, Durham
FINCH, T., Pleasington, near Blackburn	Ushaw College, Durham
FLETCHER, T. W., London	Woolwich Polytechnic Day School
FORD, R. S., London	Polytechnic Day School
FOSTER, G. M. S., Dudley	Dudley Grammar School
FOX, F., Bradford	Private Tuition
FRAZER, D. R., Penarth	Christ's College, Blackheath

PRELIMINARY EXAMINATION—continued.

(In alphabetical order)

Name	Where educated	Name	Where educated
GILBERT, H. J., London	Private Tuition	PHILLIPS, F. W., Birmingham	Private Tuition
GOODCHILD, F., Ipswich	Ipswich Middle School	PICKARD, B., Barnsley	Leeds Central Higher School
GRAY, R. S., Hull	Private Tuition	PICKMAN, J. V., Manchester	Kendal Grammar School
GREEN, F. S., Sunderland	Acworth School, near Pontefract	PITT, F. A., Manchester	Broughton School
GRIMES, C. T., London	Wood Green Higher Grade School	RICHARDSON, G. A., Anerley	Marlborough College
GRINDALL, H. Junr., Birmingham	King Edward VI. Grammar School	ROBATHAN, E. O., Risca, Mon.	Cranbrook School, Kent
HALL, G. B., Purley	Bath College	ROBERTSON, C. E. L., London	King's School, Ely
HASSALL, J. K., Ashby-de-la-Zouch	The Grammar School, Market Bosworth	ROBINSON, C. W., Prescot	Rossall School, Fleetwood
HAWORTH, H. R., Longton	Hutton Grammar School	RONALD, J. G., Welling, Kent	Beaumont College, Old Windsor
HAWTHORN, H. M., Coseley	Wolverhampton Grammar School	ROSE, C., London	University College School
HENDERSON, W. D., Newcastle-under-Lyme	Kingswood School, Bath	ROWSELL, H. W., Withington	Oakland's School, West Didsbury
HERBERT, A. E., London	Reedham, Purley	RUSHTON, A., Longton	Hutton Grammar School
HODGSON, W. L., Beverley	Private Tuition	SAYWELL, L., Nottingham	Nottingham High School
HOGGEN, W. I., Croydon	Whitgift Middle School, Croydon	SMITH, A. L., York	St. Peter's School, York
HOLL, H., New Buckenham	The Grammar School, Banham	SMITH, H. M., Hale, Cheshire	Manchester Grammar School
HOLMES, H. G., London	City of London School	SMITH, J. S., Gosforth	Newcastle-upon-Tyne Modern School
HUMPHREYS, A. W., London	Emlyn Grammar School, South Wales	TABERNACLE, G., London	Bowdon College, Cheshire
JACK, S. S., Manchester	Victoria Park School	TATTON, O. B., Stockport	Stockport Commercial School
KEEBLE, O. S., London	Private Tuition	TAVERNER, J., Bolton	Municipal Secondary School, Bolton
KELLY, W. H. E., London	Chatham House, Ramsgate	TEALE, N., London	Wimbledon Park School
KEMSEY-BOURNE, F. L., West Bromwich	King Edward VI. Grammar School, Aston	THIRTLE, P. W., Heaton Chapel	Woodhouse Grove School, Apperley Bridge
KING, H. O., Junr., Oxford	Boys' High School, Oxford	THOMAS, F. W., Winchester	Marlborough College
LAING, W., Sunderland	New College, Harrogate	THORN, E. S., London	Margate College
LAMBERT, R. E., London	Carshalton House School	TOD, F. H., London	Denstone College, N. Staffs.
LANE, S. F., Great Yarmouth	Yarmouth College	TUNSTALL, S. L., Warrington	Warrington Grammar School
LAWSON, H. C., Gateshead	Gateshead Secondary School	VINE, N. D., Leeds	Leeds Boys' Modern School
LEE, H. N., London	King's College	WELCH, F. E., Gosforth	Allan's Endowed Schools, Newcastle-upon-Tyne
LINSLEY, A. T., Hull	Caistor Grammar School	WELLS, O. W., London	Christ's Hospital, West Horsham
LOWE, E. W., London	Private Tuition	WESTOBY, C. N., Lytham	Manchester Grammar School
MACKENZIE, L. V., Taunton	Private Tuition	WESTON, R. J., Derby	Derby School
MACLEOD, T. G. C., London	Emanuel School, Wandsworth Common	WHEATCROFT, W. A., Sheffield	Private Tuition
MANNING, T., Malton, Yorks.	The Mount Academy, Malton	WHITE, A. G., Westcliff-on- Sea	Ark House School, Banbury
MERCER, E. A., London	Millfield's Street School	WHITE, T. H., Newcastle- upon-Tyne	Royal Grammar School, Newcastle-upon-Tyne
MOILLIET, F. K., Tunbridge Wells	Private Tuition	WIDDUP, W., Barnoldswick, York	Private Tuition
NICHOLS, C., Dudley	Worcester Cathedral, King's School	WILKINSON, R. S., London	Parmiter's Foundation School, N.E.
NICKELS, J. D., Shrewsbury	Repton	WILLIAMSON, V. B., Manchester	Eccles Grammar School
NEWTON, W. H., Burton-on-Trent	Newcastle Modern School	WOODS, J. J., London	Horsham Grammar School
OVERTON, R. E., Leicester	Rydal Mount School	WORSLEY, H. B., London	United Service's College
PARKIN, F. H., Manchester	Municipal Secondary School, Manchester	YATES, W. F., London	Haberdashers' Askes School, Hampstead
PAUL, W. W., Blyth	Skerry's College, Newcastle-upon-Tyne		

INTERMEDIATE EXAMINATION.

(Candidates who obtained a certain number of marks, in Order of Merit)

HARE, M. L. T., M.A. (*Prize*), (G. Sneath), London
 BRIGHAM, B. H. (*Robert Fletcher Prize*), (W. T. Bridgwater),
 Birmingham
 ATKINSON, G. (J. A. Walbank), Newcastle-upon-Tyne
 WATSON, H. C. (J. A. Sisson), Newcastle-upon-Tyne
 HAWORTH, O. (H. Davies), Preston
 DAVIES, B. C. (A. W. Macredie), Sheffield
 BROOKER, F. A. (W. Calder Marshall), London
 JARVIS, W. C. (E. M. Burnett), Southampton
 FALK, O. F. (C. J. March), London
 PLANT, W. (H. Hill), Manchester
 LEGG, J. F. (H. Garman), London
 CORNWELL, S. W. (C. Smith), Bristol
 WARD, D. J. (B. Cookson), Liverpool

(In alphabetical order)

ACTON, S. C. (C. Cooper), London
 ANDERSON, A. D. (E. Davis), London
 ANGUS, A. J. (J. H. Whiting), London
 ARDLEY, H. J. (H. Lakin-Smith), Birmingham
 ARNOLD, A. S. (A. L. Blow), London
 BASNETT, E. (G. C. T. Parsons), Birmingham
 BEALEY, C. L. (J. W. Watts), Manchester
 BEECROFT, L. C. (B. T. Crew), London
 BINDER, B. H. (F. H. W. Hope), London
 BLAIKIE, A. (R. M. Pembridge), London
 BLAKE, L. G. (L. Blake), Great Yarmouth
 BOTTING, A. (W. C. Tomlinson), London
 BOUND, H. C. (W. H. Chantrey), London
 BRABNER, J. W. (C. F. Williams), London
 BROWNIE, G. de B. (F. J. Young), London
 BULL, W. H. (G. W. T. Burr), London
 BURTON, G. (H. Naylor), Manchester
 BUTLER, G. W. (C. J. Angus), London
 CAVE, E. (T. E. Kimberley), Birmingham
 CHARDIN, W. A. Junr. (G. J. Toy), London
 CRAMPTON, W. L. (C. W. M. Kemp), London
 CROSSLEY, B. (E. Crossley), Manchester
 DAVIES, H. G. (C. Pittman), London
 DAWSON, H. R. W. (E. E. Fox), Hastings
 DENNEHY, C. J. (S. P. Jackson), Bristol
 DOWNEY, W. P. (E. C. Moore), London
 DOYLE, N. (P. D. G. Bell), London
 DUNSTAN, E. W. (W. Howard), London
 ELLISON, J., Junr. (F. Impey), Birmingham
 EVANS, W. S. (H. Lanham), London
 GANSON, C. W. H. (D. C. Wilson), London
 GIELGUD, H. L. F.A., B.A. (L. Maltby), London
 HARRIS, E. A. (S. Tryon), Bristol
 HARRISON, J. S. (M. Leicester), London
 HARROP, G. H. (E. S. Holmes), Manchester
 HASLAM, P. T. (W. Dearden), Manchester
 HIGSON, J. H., Junr. (J. S. Holt), Liverpool
 HILL, H. L. H., B.A. (W. E. Vellacott), London
 HIND, J. W. (J. C. Bladen), Hanley
 HINDSLEY, N. (L. T. Smith), Wolverhampton
 HODGKINSON, A. (S. Jeffreys), London
 HOLGATE, W. J. (J. Stubbs), Liverpool
 JARVIS, A. R. (A. E. Jarvis), London
 JENKINSON, T. N. (W. D. Oldham), London
 JOLLY, J. H. (R. Bowman), Blackpool
 KINSMAN, J. W. (I. J. Roberts), Cardiff

(In alphabetical order)

KNIGHT, C. (W. P. Tones), London
 LATHWOOD, A. H. (J. J. B. Arter), Birmingham
 LAWRENCE, S. M. (C. Corbridge), London
 LEIGH, J. E. A., B.A. (H. M. Graham), London
 LESLIE, J. (C. Richards), Birmingham
 LEVER, J. R. (E. Paterson), Manchester
 LOCKWOOD, G. F. (F. Lockwood), Huddersfield
 LOWE, F. H. (H. B. Pearson), Wolverhampton
 LOWICK, B. (S. Hare), Bristol
 MADGE, H. (J. M. Wade), Liverpool
 MAGRATH, H. W. (J. E. Rowley), Birmingham
 MCCALLUM, B. B. (A. C. Palmer), London
 MORLAND, D. F. (R. L. Impey), Birmingham
 MOUNSEY, H. P. (C. H. Mounsey), London
 NETHERWOOD, H. (H. Sykes), Huddersfield
 NIXON, W. A. (F. V. Hansford), Manchester
 NORMAN, J. R. (H. Fielding), Birmingham
 OLDMAN, A. S. (T. Watson), Burnley
 OSMOND, L. J. (S. A. Young), London
 OTTEY, B. C. (R. A. Felton), Birmingham
 PADBURY, F. S. (C. E. Bradley), Scarborough
 PARROTT, D. A. (P. L. Ellis), London
 PATTERSON, H. A. (S. S. Dawson), Liverpool
 PEARCE, H. G. (T. A. Pearce), Dorchester
 PEGLER, G. B. de J. (O. Berry), London
 PEPPER, W. A. (P. E. Metzner), London
 PHELIPS, G. A. (G. B. Nancarrow), Middlesbrough
 PLUMMER, G. W. (W. A. Pearce), London
 POLGLASE, H. B. (F. P. Jenkins), Bristol
 POWELL, S. J. (W. L. White), London
 PRIDEAUX, H. G. W. (J. Curtis), Bristol
 RANDALL, C. J. (W. A. Schultz), London
 READ, H. (A. Pearce), Ipswich
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Leading Articles.

Indian Companies' Balance Sheets.—Charges on Assets.

OWING to the pressure of other matters we regret to find that we have, so far, overlooked the promise which we made, in our issue of the 14th April last, to deal at an early date with a question of some interest raised by our correspondent "Decimals," whose letter we reproduced in our Correspondence column.

In a sense the point raised is one of somewhat limited application, in that it seems to relate only to companies to which Table A is applicable. Under this heading, of course, comparatively few British companies are now included, but, as our correspondent points out, the Indian Companies Act of 1882 makes the form of Balance Sheet laid down in Table A compulsory for all Indian companies; and although the form is certainly capable of improvement in some respects, it is, we think,

quite an open question whether something of the same kind would not be desirable with regard to British companies, although in the nature of things two or three alternative forms would be necessary to meet the requirements of the very diverse classes of undertakings that are incorporated under the Companies Acts. Under the form in question the amount of loans on mortgage or debenture bonds is required to be shown as a separate item on the left-hand side of a Balance Sheet. Our correspondent tells us that many Indian concerns are financed by banks upon a letter of hypothecation giving a lien over the stocks of the concern, and the question that he raises is as to whether the auditors of the company he has in view were justified in insisting that such loans or advances should be shown as secured upon stocks. The fact that in India companies' Balance Sheets are open to public inspection naturally increases the importance of the point at issue, in that under these circumstances the common-sense view would certainly appear to be that such Balance Sheets are prepared not solely in the interests of the shareholders. So far as we can gather from our correspondent the discussion on the matter has hitherto centred round the question as to whether or not such a letter of hypothecation as has been given in this case is a lien or mortgage within the meaning of Table A. Upon this point we naturally do not care to express any opinion without having the document before us. The question as to what is and what is not a mortgage is a matter of some nicety, but does not appear to altogether exhaust the matter. The term "debenture bond" seems to us to be very much wider, and would, we think, include any transferable admission of indebtedness, whether secured by a

charge upon assets or not. That being so, we think it more than probable that the letter of hypothecation referred to would be covered by the wording of this item in the *pro forma* Balance Sheet; but, however that may be, this form—providing as it does for the specification of a company's liabilities under no less than seven different headings—certainly seems to us to require that any debt secured by a charge should be so shown, and not shown in a form which would be calculated to conceal the existence of that charge.

But although we go so far with the auditors in the case referred to, we are inclined to question their right to insist upon these loans or advances being shown as secured upon stocks. We see nothing in the prescribed form that appears to require the nature of the security to be expressly stated on the face of the Balance Sheet. It is, we think, a sufficient compliance with the form if secured debts are distinct from unsecured debts, leaving those who may be interested in the matter to carry their investigations further by an inspection of the Register of Mortgages, which should undoubtedly include particulars of any lien given over stocks, whatever the precise nature of that lien, and even although, perhaps, it does not come strictly under the heading of either mortgages or debenture bonds.

With regard to the latter part of our correspondent's letter, which inquires as to whether it is the custom in England to distinguish between secured and unsecured creditors, or between assets that are unquestionably the company's property and assets over which a mortgage, charge, or lien has been created, we think that we may state without fear of contradiction that it is not customary to specially earmark those assets over which a charge has

been given on the face of the Balance Sheet, although in exceptional cases that course has been pursued. With regard to liabilities, mortgages and debentures are invariably distinguished from unsecured claims in every properly drawn-up Balance Sheet, or when a charge has been created to secure a fluctuating amount a note to that effect is, or at all events should be, appended to the item affected. When, however, in the ordinary course of events, charges or liens arise out of the regular conduct of business, it is, we believe, as a rule thought unnecessary to particularly specify them, at all events unless the amount involved is sufficiently important to materially affect the position of affairs. For instance, a solicitor or a banker would have a general lien upon all documents of value in his possession as against any debt that may be due to him; but the fact would not in the ordinary course of events be stated, doubtless because the financial position of the undertaking is not materially affected by the circumstance where there are plenty of assets to pay all debts. Where, however, a lien or charge has been created by the execution of a legal document, there can, we think, be little doubt that what has taken place is a "transaction" from a bookkeeping point of view, and as such must be properly recorded in the books before any Balance Sheet prepared from them can be properly said to fully disclose the true position of affairs.

Secret Reserves.—II.

IN our last issue we summarised the arguments put forward by Mr. PARKER on behalf of the defendants in *Newton v. The Birmingham Small Arms Company, Lim.* These, however, were supplemented by his leader, Sir

ROBERT FINLAY, K.C., who contended that the question as to what should be in a company's Balance Sheet was entirely a matter for the articles of association to deal with, inasmuch as there were no express statutory provisions whatever upon the matter. With regard to the auditor's duty, he urged that it was a sufficient compliance with the statute for the auditor either to report that the accounts were correct or that they were not correct in part, without of necessity going into detail as to exactly in what respects they were incorrect. In reply, Mr. BUCKMASTER pointed out that in the *London and General Bank* case Lord Justice LINDLEY stated that it was the duty of the auditor "to ascertain the true financial position of the company," and that his duty could not be discharged if only nine-tenths or even ninety-nine one-hundredths of the true position was disclosed. His Lordship pointed out that no Balance Sheet ever yet made really disclosed the full position—a Balance Sheet was, in the nature of things, largely a matter of estimate, and that what was meant was that the financial position was at least as good as the Balance Sheet showed. Mr. BUCKMASTER had reserved, however, his heavy artillery for the last. He pointed out that if these articles of association were valid, then they must hold good at all times, and without any limitations, and that whatever happened it would be the duty of the auditors to keep silence with regard to this Internal Reserve. It might be employed (say) in acquiring shares in an unlimited company which would place the company under a heavy and very serious liability; and yet whatever happened, if these articles were valid, the shareholders would never know, and would never have a right to know, what was their position. He submitted

that this was directly at variance with the statutory provisions as to audit, and that therefore the articles challenged were bad *in toto*.

Sir ROBERT FINLAY could not, of course, fail to see the strength of this argument, and the somewhat untenable position in which it placed him, but he sought to get into smoother water by arguing that the articles did not mean that whatever happened the auditor should never disclose the true position of affairs to the shareholders, but merely that, in the ordinary course of events, it should not be his duty to disclose information as to the Secret Reserve. Of course, he added, if the necessity arose it would become the duty of the auditor, notwithstanding these articles, to give all proper information to the shareholders. The difficulty of the position into which he sought to thrust the auditor does not appear to have occurred to him, but then Sir ROBERT represented the company, and not the company's auditors.

In his considered judgment, Mr. Justice BUCKLEY exhibits a thorough appreciation of the practical difficulties that the question raised. On the one hand, there is the fact that companies would sometimes be very seriously hampered in their business if they were invariably obliged to disclose everything in the accounts issued to their shareholders; while, upon the other hand, there is the very serious danger of conceding that the published and audited accounts are not necessarily the whole of the story, but are, as a necessary consequence, *pro tanto* incomplete and inaccurate. He held that the language of the 1900 Act was sufficient to show by implication that it was required that there should annually be an audit of accounts resulting in a Balance Sheet, for the accuracy of which the auditors should speak. Prior to reporting to the share-

holders it was the duty of the auditor to examine the accounts, and the accounts that would have to be examined would include those relating to the Internal Reserve Fund. The crux of the matter before him was, his Lordship said, whether it was a compliance with the words of the Act that the auditor should report that he had examined the accounts as to the Internal Reserve Fund, that he was satisfied with them, and that the funds had been employed in the manner authorised by the company's regulations, or whether there would be default in compliance with the Act if he did not go on to say how the funds had been employed. He thought such a report would be within the Act if the auditor was *bonâ fide* satisfied, in making his report, that he was truly reporting as to the true and correct view of the state of the company's affairs; for it was competent for the shareholders to say that as to particular items of their business it was in the interest of the company that there should be secrecy, and that, therefore, unless his duty required it the auditor should not disclose the details relating to these matters even to the shareholders themselves. He thought, however, that the articles that had been challenged went too far. Any regulations which precluded the auditors from availing themselves of all the information to which, under the Act, they were entitled as material for the report which they had to make as to the true and correct state of the company's affairs was, he thought, inconsistent with the Act. He accordingly granted the injunction asked for restraining the defendants from acting upon the resolution, and ordered them to pay the costs.

It will be observed that Mr. Justice BUCKLEY's decision is not inimicable to Secret Reserves *per se*, but is clearly limited to the particular

form of articles employed in this case, which, in his opinion, go too far, in that whatever happens they purport to preclude the auditor from utilising for the purposes of his report certain information as to the financial position of the company that has come to his knowledge in the course of his audit. We understand that the Birmingham Small Arms Company will accordingly take early steps to pass the necessary resolution for revised articles which, while meeting his Lordship's objection, may yet serve their required purpose, and it will be of interest to see the exact form of wording which it is ultimately decided to adopt. In the meanwhile the subject is, of course, one that it is quite possible to consider in general terms and entirely irrespective of the Birmingham Small Arms Company, Lim. In the course of his judgment Mr. Justice BUCKLEY mentioned that there was no suggestion that the proposed clauses were to be used for any other than a legitimate purpose, and Mr. BUCKMASTER had, of course, taken pains to show at the outset that it was not desired to make any allegation whatever against the defendant company or its directors, or any suggestion as to the possibility of any irregularities taking place in the future. By so doing he inevitably and deliberately weakened his case, in that he abandoned his strongest argument—that an accounting party ought not under any circumstances to ask those to whom he is accountable to take his accounts, or any part of them, on trust. That Secret Reserves are necessary and desirable in the case of all really first-class concerns is, of course, generally admitted; but on the other hand it must on no account be forgotten that, save in connection with really first-class undertakings whose boards are entirely above suspicion, the principle of a Secret Reserve is one fraught

with the very gravest danger to all concerned. This aspect of the matter we propose to consider in a subsequent article, where we shall deal with it, of course, in quite general terms, as having no possible application to the case which we have so far been considering.

Weekly Notes.

Cost Book Mining Companies. At the recent meeting of the proprietors of the East Pool and Agar United Mines it was suggested that the necessary steps be taken to convert the mine from a cost book to a limited liability company. The advocate of the change was not particularly happy in his arguments, for he is reported to have said that:—

“If anyone invested in a cost book concern and died, the shares, on being sold, did not fetch as high a price as if the concern were a limited liability company. He contended that anybody who put money in a mine, and wanted to realise it would get 25 per cent. more if the mine were a limited liability company than if it were worked under the cost book system. In selling limited liability shares they practically always got 19s. 6d. for every £1 share, and not more than 12s. 6d. for every cost book share.”

The prejudice against what are called “new tangled methods” is still strong in Cornwall to-day, and, although its tenacity may be astonishing, one can hardly wonder at the reluctance to accept newer ideas if the moderns are to be represented by the author of the quoted passage. A Cornishman generally reasons through his pocket, and we should have thought that a simple illustration of the fundamental difference between the cost book system and the doctrine of limited liability would have converted more apostles than the stupidly misleading statement attributed above.

Bank of England Stock. In the House of Commons recently Mr. Field asked the First Lord of

the Treasury—in view of the facts that the value of Bank of England stock has of late years declined some 60 points (342 to 284), and that the values of limited bank shares have hardly depreciated at all during the same period, owing to the operation of Leeman's Act, which protects these securities from bear raids—what steps the Government intended to take to protect the Bank of England stock and other trustee

securities, and whether the Government would adopt the same effectual legislative measures to apply to all these stocks as Leeman's Act did with limited bank shares, in order to stop a continuance of the systems of bull and bear financial gambling operations in fictitious shares with the object of protecting the interests of *bona fide* shareholders? The Prime Minister, in a written reply, is reported to have said that he doubted if Leeman's Act produced all the effect that the hon. member attributed to it, and that he was not prepared to take the action that had been suggested.

Limited Liability in Germany. It is reported that during the first half of the current year 120 new companies were registered in Germany, with a total capital of £11,400,000, as compared with 192 companies and £19,300,000 in the year 1905. The figures show a notable increase, which, if maintained, should bring 1906 well ahead of its predecessor, but even then the records of previous years will not be touched. But that is, perhaps, not peculiar to Germany alone.

Foreign Life Assurance Companies. Mr. Harmood-Banner, F.C.A., M.P., in giving evidence last week before Earl Beauchamp's committee, is reported to have said that he had been a large insurer in American companies, and he thought there should be more definite responsibility as regards the statements made by canvassers, in fact, the statements as to results when a policy was about to be taken out should be made by responsible officials, for in many cases the actual policy was quite different from the terms upon which the insurer was induced to take it up. In reply to Earl Beauchamp's remark that in that case the policy need not be accepted, Mr. Harmood-Banner pointed out that the premium would have been paid, and, although there might be a remedy, policy-holders would have to go to America in order to take action. In some cases the policy was accompanied by a statement that the company would not be responsible for any statement made by its agent on this side, and he thought there ought to be someone here who could be made responsible, by which better security would be given to policy-holders. The editor of *The Times'* commercial supplement expressed the opinion that the Act of 1870 should be extended so as to apply to foreign companies, especially in regard to the publication of accounts which should relate to the business done by foreign insurance companies in this country as distinct from other countries.

Bank Notes and the "Intacta" Theory.

It is reported that a trader who was in the habit of marking bank-notes by means of a perforating stamp recently had such a note returned to him by his bankers with the remark that it was mutilated. A request for the missing parts is said to have followed, and then a solemn inquiry as to where the missing fragments were! A contemporary says that since the Bank of England pays 2d. or 3d. for the printing, &c., of each note, the cutting short of its life by means of a perforated advertisement practically necessitates the Bank paying for the advertisement.

The Scope of an Auditor's Duties.

Our contemporary *The Financial News*, to whom we referred in an article appearing in our issue of the 7th inst., has changed its ground with regard to what it is pleased to call the fallacious character of Messrs. Price, Waterhouse & Co.'s certificate as to the general administration of the New York Life Insurance Company. It will be remembered that in its previous comments, to which we then drew attention, this was the very point that escaped criticism, albeit (as we pointed out) it is the one upon which, in the nature of things, it would be most difficult for a firm of auditors to form so definite an opinion as to justify them in giving a certificate. Of course, it goes without saying that in considering the financial stability of any undertaking the amount of its liabilities, as well as of its assets, must be taken into account, and that in the case of a life insurance company the assessment of its liabilities is the work of an actuary, and not of an accountant; but that in itself is, of course, no reason why an accountant should not certify as to matters that do come within his cognisance. If our contemporary's object is to discredit the position of the company referred to, it is a matter which does not very particularly interest us one way or the other, but we would suggest that its utterances would carry more weight if our contemporary first made up its mind what it proposes to complain of, and what its reasons are for so doing.

The Dublin Corporation Audit.

We are glad to observe that *The Municipal Journal* makes no attempt to encourage the Dublin Corporation in its improper defiance of the Local Government Board and of the Irish Court of King's Bench. On the contrary, it states that no competent body of citizens, for the protection of whose interests a proper audit is

a vital necessity, can have any sympathy with the attitude of the Dublin Corporation, and it is to be hoped that that authority will now reconcile itself to the inevitable, and not only cease to obstruct Mr. Drury, but proceed to give effect to those reforms which his criticisms rendered necessary. It would almost seem that the real object of this controversy has been, not to protest against an unsatisfactory or illegal form of audit, but to divert attention from the manner in which the finances of the Corporation have been mismanaged in the past, and the true position withheld by the issue of inaccurate accounts.

The Gold Reserve Question. Lord Goschen's remarks at the recent jubilee dinner of the National Discount Company bring forward again the all important question as to the sufficiency of our gold reserves. It was only to be expected that so prudent a man of finance as Lord Goschen should be in favour of larger stocks of gold, and, as he said with customary lucidity, the problem was one of ways and means rather than of abstract principles. Amid all the technicalities that surround the subject (with which we need not burden our readers) the plain fact remains that all liabilities that are undertaken by the banks and every transaction throughout the vast volume of British commerce must be ultimately dependent on payment in gold. Furthermore, as Lord Goschen said, a larger reserve in gold meant an increased cost to somebody or other. If a certain amount of cash were to be kept employed for emergencies somebody must lose the interest upon that cash. Who was to lose it? There was the great question; and because we could not settle that question amongst ourselves we should drift on probably from year to year without much being done to remedy that which he considered to be an unsatisfactory position. It was not only a banking question; it was a national question. It was to be deplored that if any great crisis—a war or any great catastrophe of that kind—were to fall upon this country we should be found with so small a stock of gold as that which we at present possessed. The speaker hinted at three sources of possible remedy. Firstly, the ordinary banks might keep larger reserves; secondly, the Bank of England might increase its stock of gold; and thirdly, the Government might maintain a Treasury. There also might be a combination of all these schemes. It will naturally be expected that the banks will settle the question for themselves, although it seems as if they would be helped by legisla-

tion in some slight degree, and there is indeed no lack of talent in the banking and financial circles quite capable of handling the problem. It may be that the difficulty is the old one of "too many cooks," but in the interests of commercial supremacy it is to be hoped that sooner or later something will be done to secure the proper maintenance of the reserves upon which the whole fabric of our credit rests, and there seems to be no very forcible reason why bank shareholders, of all members of the community, should alone be expected to pay the piper.

Retired Official Receivers in Professional Practice.

A Birmingham contemporary is responsible for the statement that after a short rest Mr. Luke J. Sharp, who after serving as Official Receiver for the Birmingham District from the commencement of the Bankruptcy Act, 1883, to practically the present time, and who was a few weeks since compulsorily retired on a pension on attaining the age of 65, has joined his son and partner in practice under the style of Sharp, Sparshott & Co. The late Official Receiver had formerly been in practice with his brother, the late Mr. E. M. Sharp, in the firm which was subsequently known as Sharp, Parsons & Co., one of the most celebrated firms of Chartered Accountants in Birmingham, and from the tribute which we paid to Mr. L. J. Sharp upon retirement from his office as Official Receiver, it will, we feel sure, be readily gathered that we hold him personally in the highest esteem. We, however, think that a man who has been retired from the public service on the ground of advancing years, and is in receipt of a Government pension, ought not to enter into active competition with other members of his profession, in that in the nature of things he cannot do so upon anything like an equality of opportunity. He brings to that profession an assured income derived from his pension, which, we imagine, it can hardly be said was given him for any other reason than to maintain him in retirement; and he also brings with him a certain amount of *éclat* and position as a retired Government official, which—however unreasonably—will in the minds of many persons be regarded as placing him in front of those whose actual experience in public practice may be equal to, or even greater than, his own. Competition under such circumstances can, we feel, only be unfair; while we cannot help thinking that it is difficult for a man to justify the acceptance of a pension out of public funds save as a means of enabling him to live in his declining years

in comfort *without* being obliged to compete with others who do not possess the same advantage. We entirely sympathise with the view of an energetic and strenuous man that 65 years is altogether too early an age to abstain from work, but there are many opportunities calling for the public and disinterested services of a thoroughly capable business man which do not oblige him to embark upon competition with others upon unequal terms.

**Another
Insurance
Amalgamation.**

We understand that a provisional agreement has been entered into by the directors of the United Kingdom Temperance and General Provident Institution and the directors of the Star Life Assurance Society for the amalgamation of these two businesses, and that an agreement to that effect will shortly be submitted to each Society for approval. If the agreement be carried through, the combination will be one of the largest that has yet taken place, the total funds of the two offices being nearly fifteen millions sterling, and their annual income in excess of £1,600,000.

**Foreign Life
Insurance
Companies.**

A question which was put to the President of the Board of Trade a few days since relative to the retirement of the Mutual Reserve Life Assurance Company of New York from this country, taking with it its twenty thousand pounds deposit, is, we think, chiefly of interest as showing the danger that attaches to the institution of regulations which—while they appear to safeguard the public—have little or no practical value for that purpose. As Mr. Lloyd-George pointed out to his inquirer, the company in question has given up its London office. As required by the Life Assurance Companies Act, 1870, the sum of twenty thousand pounds was deposited with the Court of Chancery by the company when commencing business in this country in 1886, but was withdrawn in January last by order of the Court and in accordance with the Act mentioned, which provides for the repayment of the deposit as soon as a company has accumulated out of premiums the sum of forty thousand pounds. It will be but a poor consolation to the British policy-holders of this company to know that it has accumulated forty thousand pounds out of premiums now that the amount so accumulated has been withdrawn. The incident is only another example of the way in which foreign companies carry on business in this country

without providing the least assurance that they will fulfil the obligations which they undertake.

**The
Cardiff Borough
Treasurership.**

On the occasion of his leaving Eastbourne to take up the appointment of Borough Treasurer of Cardiff, Mr. J. W. Allcock, F.S.A.A., was presented with a framed address, a handsome silver salver, and four silver candlesticks by the Eastbourne councillors and officials. In this connection it is somewhat humorous to learn that the Mayor of Kobe, in Japan, has recently written to the Lord Mayor of Cardiff stating that having heard of the excellent manner in which the affairs of that municipality are managed, he would be glad if the Lord Mayor would kindly forward him from time to time copies of any documents that are likely to prove either interesting or instructive to Cardiff's Japanese admirers. This would appear to be one of the few cases in which the Japanese have proved themselves to be ill-informed, for certainly there is little in the past municipal life of Cardiff to call for either emulation or respect. With the advent of Mr. Allcock, however, doubtless a new era will be opened up, so that the application of the Mayor of Kobe may perhaps, after all, be taken as an intelligent anticipation of coming events.

Current Law.

ADMINISTRATIONS.

Re the Estate of David Moses (dec.); Valentine v. Moses.

Swinfen Eady, J.

On a summons for directions as to whether certain leaseholds left by the testator should be sold, as being property of a wasting nature under the rule in *Howe v. Lord Dartmouth*, held that the property in question being situated in the Transvaal Colony, the application should be made to the Transvaal Courts.—(*Times*, July 13.)

COMPANY LAW.

Blake v. Smither.

Kekewich, J.

Held, that where the rules of an unregistered friendly society make no provision for its dissolution, the Court has jurisdiction to order a winding-up, but will not do so unless there is a practical impossibility of the society continuing.—(*Times*, July 16.)

In re Jackson & Bassford, Lim.

Buckley, J.

Held, that a debenture issued by an insolvent company to its "permanent director" about fourteen days before the commencement of the winding-up of the company, in pursuance of an antecedent agreement, was—in the circumstances of this case—a fraudulent preference within the meaning of Section 164 of the Companies Act, 1862.—(*Times*, July 18.)

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinions expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Capital Expenditure and Discounts: Apportionment.

(To the Editor of *The Accountant*.)

SIR,—I shall be much obliged if you, or any of your readers, will kindly advise me upon the following two points:—

(1) A limited company purchased plant and machinery for capital purposes, and by paying for them before a certain date earned a discount of (say) £500. Should this discount be credited to the Plant and Machinery Account, and thus reduce the capital value of this asset in the books of the company, or would it be quite correct to credit the £500 to Profit and Loss Account?

(2) The Apportionment Act, 1870, Section 6.—The tenant-for-life of a settled estate died on the 8th January 1906, having paid all the fire insurance premiums on the property for the year ending 25th December 1906. Do I interpret the above section of the Act of 1870 correctly, by assuming that the new tenant-for-life cannot be charged with the proportion of the premium from the 8th January to the 25th December 1906, although he had the benefit of the policies for that period?

Yours truly,

14th July 1906.

F. R. M.

[(1) It depends on the company's memorandum and articles: probably the £500 is legally divisible. (2) The Act does not apply here.—*Ed. Acct.*]

Points in Insolvency Law.

[The practice referred to does not solely arise under the Debtors Act, Section 5, but under that Act and the Bankruptcy Act, 1883, Section 103 (5), which is as follows:—"Where under Section 5 of the Debtors Act, 1869, application is made by a judgment creditor to a Court having bankruptcy jurisdiction for the committal of a judgment debtor the Court may, if it thinks fit, decline to commit, and in lieu thereof, with the consent of the judgment creditor, and on payment by him of the prescribed fee, make a receiving order against the debtor. In such case the judgment debtor shall be deemed to have committed an act of bankruptcy at the time the order is made."]

In *Xenos v. Wickham* (L.R. 2, H.L. 296) the principle was recognised that an offer made by deed is irrevocable, and that even though not communicated to the offeree it remains open for his acceptance on his becoming aware of its existence. It would therefore seem that a deed executed as suggested would be sufficient to protect the property against execution at the instance of any creditor who does not, on hearing of the existence of such a deed, expressly repudiate it.

Lawrence, at p. 10, 5th Ed., says, in accordance with the above, that: "Execution by a creditor is not necessary, for, as was said by Lord Cottenham in the case of *Jerrard, ex parte Chambers, In re* (3 Deacon 17), "it is a known rule that all the creditors of an insolvent need not actually sign a composition deed; but if they concur, and act under it, the Court will consider it as obligatory as if they had signed. It is obvious, however, that it is not safe either for debtor or creditor to rely on such constructive accession in place of signature or written assent, for the debtor may find himself sued by a creditor whom he thought to be assenting to the deed, while a creditor may discover that what he considered to be accession does not in the opinion of the Court of Equity entitle him to a share in the deed."—OUR LEGAL CONTRIBUTOR.]

(To the Editor of *The Accountant*.)

SIR,—In reply to your correspondent "Lancashire," as to the first point there are no "principles" relating to the exercise of the Court's discretion. The form of

procedure is that where a judgment creditor, for any sum, applies under Section 5 of the Debtors' Act, 1869, for a committal order against a judgment debtor, the Court may, in lieu of committing the debtor to prison, make a receiving order under Section 103 of the Bankruptcy Act, 1883, on the creditor consenting and paying the prescribed fee of £10. In such a case the debtor is deemed to have committed an act of bankruptcy, and by Section 20 of the Bankruptcy Act, 1890, the "relation back" section (Section 43) and also Section 48 of the Bankruptcy Act, 1883, applies, as if the debtor had been adjudicated bankrupt on a petition.

I know of no case dealing with his second point, but he seems to confuse two distinct things. A judgment is issued against the property of the debtor, and if at the time of the levy the goods have ceased to be the property of the debtor, by reason of the assignment (subject to Section 26 of the Sale of Goods Act, 1893), there are no goods of the debtor upon which to levy.

The assent of a creditor to a deed, or communication of the existence of a deed to a creditor, only affects the right of the debtor to revoke the assignment; but until revoked or voided by non-registration, the assignment is good to defeat an execution even though no creditor has assented and the existence of the deed has not been communicated to any creditor.

Your correspondent might refer to *Harland v. Binks* (15 Q.B.D., N.S. 713) and *Hale v. Metropolitan Co.* (28 L.J., Ch. 777).

Yours truly,

14th July 1906.

DAVID P. DAVIES.

(To the Editor of The Accountant.)

SIR,—In answer to the inquiry raised by your correspondent "Lancashire" with regard to a deed of assignment, I venture to express my opinion on the position as follows:—

Prior to October 1904 deeds of assignment could be registered without the signature of either the trustee or any creditor, although, of course, a full list of the creditors has always been necessary as part of the debtor's affidavit. Since October 1904 it has been necessary for the trustee to execute the deed before registration, but as yet there is no necessity for any creditor so to do.

When the question of protection from execution is to be considered the circumstances are slightly different. In order to protect the assets against execution a deed of assignment must be irrevocable, except by bankruptcy procedure, and in order to render such a deed

irrevocable at least one creditor should have assented to the deed. This assent may be given either in writing or verbally. The case usually quoted in this connection is *Harland v. Binks* (1851, 15 Q.B. 713). Thus there is no necessity, for the purpose of registration, for either the verbal or written assent of a creditor, but for the purpose of protection against execution at least one creditor should have assented to the deed either verbally or in writing.

Yours faithfully,

Liverpool, 17th July 1906.

S. S. DAWSON.

What is a Check Figure?

(To the Editor of The Accountant.)

SIR,—The "Check Figure" System, referred to on page 37 of your last issue, and on which you desire information, is ingenious, but not a valuable aid to the professional accountant.

To a man who can add figures with fair accuracy it appears to be more of a hindrance than a time saver, but to those who are inaccurate it may prove a blessing.

The system is based upon the scales of notation.

A code number is found which, applied to any number of items of any amount, is always correct. As each item is entered in the Day Book, &c., the code number for the item is set against it, and when the item is posted to the Ledger the code number is posted at the side of it.

The aggregate amount of the items of £ s d should then agree with the aggregate of the code figures—i.e., when both aggregates are properly reduced to their code figure; if they do not, the postings are wrong.

There are two ways of finding the code figure: the first involves reduction of pounds and shillings to pence, and is too long; the second takes advantage of the relation of pounds, shillings, and pence, and greatly simplifies the calculation.

I saw the system and found out the method of working it, but do not think it fair to disclose it publicly.

The foregoing only applies to checking the accuracy of additions, which anybody reasonably accurate can do with an up-and-down cast.

From this week's advertisement, Mr. Fring appears to have adapted his system to detecting items posted to wrong accounts; if he can do so readily, he has made a valuable discovery.

Yours faithfully,

16th July 1906.

Digitized by Google H. T. L.

(To the Editor of The Accountant.)

SIR,—In response to the invitation contained on p. 37 of your issue of July 14th, I beg to offer a brief description of how a check-figure system is practically applied in posting account books, and I do this the more readily because I am in the interesting position of having purchased, on behalf of my company, the right to use both the methods to which you call particular attention, as well as having taken a share in a considerable amount of experimenting in the subject before purchasing either method.

There are naturally differences in the two systems, but, as one of them may not be publicly disclosed, I am not able to offer any comparisons except to say that in this matter, as is frequently the case, the first cost is by no means the only thing to be considered. The best system is, of course, that which will enable the Ledger clerk to ascertain the check quickly and with the minimum of effort, and at the same time leave the least amount of room for probable errors, but, whichever system is adopted, the method of applying the check may be described as follows :—

The clerk who is posting into the Ledger ascertains the check figure (which may consist of one or two figures, but never more than two); he calls out this check to the assistant who is at the subsidiary book (*i.e.*, Day Book, Cash Book, &c.), who records it against the proper item in the book being posted *from*. These check figures are added up at the foot of each page of the subsidiary books, and if they do not agree with the check figure of the total of the page, the fact is revealed that an error has been made in one or more of the postings. Instead of calling over the postings with the Ledger, a very rapid comparison can be made between the amounts and the check figures in the subsidiary book, and the error located to the particular account in which it has been made. Thus the work is proved, page by page, of the original books of entry.

Whilst experimenting with check-figure systems generally, I made inquiries from several firms who have large numbers of Ledgers in use, and in each case was assured that they had not had to call over Ledger postings at any balancing period since adopting the particular check system in use.

The practical utility of such methods is, therefore, fully assured, and it is simply a question of *which* system to adopt to secure the undoubted benefits.

The word "it" to which you call attention as being used in an ambiguous sense, no doubt refers to the amount being posted, the check-figure of which can

certainly be ascertained mentally in no more time than it takes to write down the amount itself.

I am, dear Sir,

Yours faithfully,

W. H. STAFFORD,

Secretary Siemens Dynamo Works, Lim.
London, 17th July 1906.

Graduated Income Tax.

(To the Editor of The Accountant.)

SIR,—In answer to a recent letter signed "Fraction," it must be remembered that my figures and law only refer to Prussia.

The following deductions are allowed :—

- (1) The expenses incurred in making, securing, and retaining the income, including town taxes.
- (2) All direct State taxes on landed property, mines, and businesses, also such indirect charges which should be considered trade expenses.
- (3) The annual deductions for wear and tear of buildings, machinery, &c., if not already charged as trade expenses.
- (4) Old age and invalid insurance premiums legally payable.
- (5) Accident and life insurance premiums, if they do not exceed 600,00 marks per annum.
- (6) Interest on loans and mortgages.

The following must not be deducted :—

- (1) All charges incurred in improving the income, payments for increasing the business, investments or amortisation of capital.
- (2) Household expenses of the taxpayer.

In assessment, the income (if over 900 marks) of members of one household is added to that of the head of the household.

If the income of the head of the household does not exceed 3000,00 marks per annum, he is allowed to deduct 50,00 marks for each child under fourteen years of age, if the child is not separately assessed.

A separate assessment must be made :—

- (1) For wife permanently living apart from husband.
- (2) Children or other members of the household if they obtain an income not under the control of the head of the house, whether in his business or from other sources.

In the assessment the total income must be stated from all sources.

Fixed incomes must be stated at the exact amount; varying incomes, including taxable incomes of limited

liability companies, must be stated according to the average of the last three years.

Yours faithfully,

Berlin, 10th July 1906. ERIC. L. HEATHCOTE.

Vacant Auditorship.

(To the Editor of The Accountant.)

SIR,—I shall be obliged if you or any of your readers can tell me the usual practice adopted when an auditor dies, after completing an interim audit of a company's books, and another is appointed for the remainder of the year:—

(1) Is it usual for the incoming auditor to re-check the books checked by the deceased auditor if the latter is a qualified man?

(2) Have the outgoing (deceased) auditor's representatives a legal claim against the company for charges in respect of the portion of the audit completed, the auditor being appointed for the year?

Yours faithfully,

July 17th 1906.

AUDITOR.

Treatment of Losses made prior to Incorporation of Company.

(To the Editor of The Accountant.)

SIR,—Referring to the letter of "Anaca," p. 12, issue of 7th July 1906, if the X. Y. Z. Co., Lim., was not incorporated until 11th February 1906 it did not exist before that date, and therefore could make no profit or loss from the 31st March 1905 to 11th February 1906. Any profit or loss made between those dates should be ascertained and be added to or deducted from goodwill.

If the vendors wish to bear the loss by surrendering shares allotted to them they should most certainly be allowed to do so, as they do not appear to have "sold the company a gold mine," but the company will probably have to obtain permission to reduce capital before they can do so.

Why do the directors' salaries and fees, &c., commence prior to the incorporation of the company?

Yours truly,

16th July 1906.

H. T. L.

Sale of Undertaking to Local Authority.

(To the Editor of The Accountant.)

SIR,—I should be pleased to have your opinion or that of your readers, through the medium of your valuable publication, upon the following matter:—

Some years ago I purchased shares in a water company for which I paid considerably above par. It has now been decided by a general meeting of shareholders that the directors of the company be empowered to transfer the concern to the town corporation, who purpose issuing share capital to the present shareholders, which although in value will exceed the par of original shares, and will yield dividend equal to that which I have been receiving, yet will be considerably less in value than what I originally paid, and unless the shares advance after the transfer I stand to lose heavily. Can I compel the company to pay me the full amount which I gave for my shares before the transfer takes place, or have I no redress and must accept what is offered me in exchange with a good grace?

Yours truly,

July 12th 1906.

UBIQUE.

[It depends entirely upon the company's regulations, as to which our correspondent is silent.—Ed. *Acct.*]

Meetings for the ensuing Week.

Monday — INSTITUTE OF CHARTERED ACCOUNTANTS.—
Parliamentary and Law Committee, at 2 p.m.

Tuesday — INSTITUTE OF CHARTERED ACCOUNTANTS.—
General Purposes Committee, at 3 p.m.

Thursday — INSTITUTE OF CHARTERED ACCOUNTANTS.—
Investigation Committee, at 3 p.m.

The Incorporated Institute of Accountants, Victoria.

REPORT AND ACCOUNTS

Presented at the Twentieth Annual General Meeting of members held on 20th June 1906.

The Council has now to submit to the members its Report for the year ended 30th April 1906, together with the Balance Sheet and Revenue Account, duly audited, and in doing so would point out that the Institute has now completed its twentieth year.

The Council has held 11 meetings during the year, and members of Council have been called to the number of Committee meetings shown opposite their names. The attendances at both Council and Committee meetings are shown in the following table:—

	Council Attendances.	Committee Calls.	Committee Attendances.
Balfour Melville, R. A. A. ..	10	10	9
Brentnall, T.	11	26	25
Cleveland, A. W.	7	37	28
Densham, W. (out of 7 meetings held during his term of office)	3	4	—
Higgins, J.	7	21	17
Holmes, C. M.	10	8	7
Howden, J. McA.	7	24	17
Mendell, W. G. (out of 9 meetings held during his term of office)	4	9	7
Morley, A. C.	10	26	16
Norton, C. B.	10	12	12
Smith, H. W. C.	8	10	6
Strangward, W. O.	10	10	9
Warnock, S. J.	10	13	10
Wilson, F. H.	8	2	2
Woodward, T.	9	2	2

Leave of absence was granted to Messrs. Balfour Melville, Holmes, Morley, Smith, Strangward, and Warnock from one meeting each; to Messrs. Howden, Meudell, Wilson, and Woodward from two meetings each; and to Messrs. Cleveland and Higgins from four meetings each.

Register of Members.

The names of the following deceased members have been removed from the Register, viz.:—Mr. E. P. Hastings and the Hon. Edward Langton, both founders of the Institute and ex-members of Council, Mr. Langton having held the office of President, and Mr. Hastings that of Vice-President; Mr. D. Herald and Mr. M. A. Ridge, both Fellows of the Institute; and Mr. N. R. Wright, an Associate of only a few months' standing. The names of two Fellows have been struck off for non-payment of their subscriptions.

One Fellow has been admitted *ad eundem statum*, and 42 Associates and 13 Licentiates have been admitted by examination.

At the close of the year the Register contained the names of 330 members, of whom 105 were Fellows, 200 Associates, 13 Licentiates, five Corresponding and seven Honorary Members, an increase of 49 being shown for the year.

Examinations.

At the Final Examination held in November last 43 candidates presented themselves for all the subjects, whilst seven came up for bookkeeping and auditing only and 17 for bookkeeping only, these having previously passed in the other prescribed subjects. Of the total of 67 candidates, 37 succeeded in passing, and 15 of those who failed were, on the recommendation of the Examining Committee, granted permission to come up at a subsequent examination in the subject of auditing only.

For the Intermediate Examination in November 67 candidates presented themselves, of whom 36 were successful in passing; one candidate came up for the Preliminary Examination, and succeeded in all his subjects.

At the request of the Incorporated Institute of Accountants of New Zealand, the Council agreed to make the examination papers set for the usual April examination available for candidates for admission into the New Zealand Institute, except those on subjects governed by local legislation. The examination was held, practically simultaneously, in Melbourne and at the various centres in New Zealand, the answers to the papers set in Melbourne being forwarded here to be dealt with and assessed. Owing to the short notice that could be given, only 29 candidates for the Final and 15 for the Intermediate submitted themselves in Melbourne, and out of the 29 Final candidates only seven took the full number of subjects, the remainder coming up in single subjects to complete their examination.

The Examining Committee is now fully engaged in the task of dealing with all these papers, and hopes at an early date to be in a position to make its report.

The number of applications of all classes received during the year was 95, distributed as follows:—

For Admission as a Fellow	1
For Advancement to Fellowship	5
For Admission as Associate	14
For Admission as Licentiate	8
For Admission to the Examinations	67
Total	95

Parliamentary and Law Committee.

Early in the year a copy of a Bill introduced into Parliament by the Tasmanian Government, to provide for the registration of persons practising as accountants in Tasmania, was received. The Council thoroughly approved of the general principles of the Bill and had some opportunities of expressing its approval, but as some of the Bill's provisions appeared likely to hinder a Victorian accountant from undertaking any accountancy or auditing work in Tasmania, the Council made representations on the point, and received satisfactory assurances that if the Bill were proceeded with it would be amended to meet the objections taken. The Bill did not make any progress in the 1905 session of Parliament, but it was stated that it would be brought forward on another occasion.

The Council learned from correspondence received from South Africa that the Transvaal Society of Accountants had declined to admit members of this Institute who were resident in the Transvaal and had applied for admission; and from a perusal of a copy of the Society's bye-laws it appeared that its Council had no option but to refuse our members' applications. The Council at once took steps

to effectively represent to the Council of the Transvaal Society the facts in connection with the history and standing of the Institute, and requested the Council to endeavour to have the Society's bye-laws amended so as to enable the Society to grant reciprocity of admission to our members. The Council of the Society promised to seek power to admit the members of our Institute, being residents of the Transvaal Colony, without further examination. Advice has not yet been received that this promise has been redeemed, but the Council is aware that the Transvaal Council has had its hands very full during the past year.

There is a prospect that the Commonwealth Government may, at the request of the States Governments, take up the subject of company and insolvency legislation with a view to passing Federal Acts to supersede the State Acts and make the law on these subjects uniform throughout the Commonwealth.

Under the circumstances the Council is taking steps to have some preliminary consideration given to the subject.

Proposed Charter.

At the date of the last report it was thought that the most serious obstacles in the path of the petition for a Charter had been surmounted, although the possibility of opposition from some of the other States was never lost sight of; and it was ascertained later that the New South Wales Committee of the Society of Accountants and Auditors, the Corporation of Accountants of Australia (of Sydney), the Institute of Accountants in South Australia, and the Tasmanian Institute of Accountants were all opposing it. Such opposing petitions as were lodged were answered, but by this time the petition had reached such a stage that the agents who had the matter in hand in London were able to advise that, apart from the opposition, there was little hope of success. Members generally will be aware that the fact that the Charter had been refused was published in the cabled news in the daily papers early in March, and this was duly confirmed.

From copies of official correspondence since received it has been learned that the merits of the case made out by the opposing petitions were not considered, and that even if the petition for a Charter had been unopposed His Majesty would not have been advised to grant it, on the grounds (1) That the object desired could be accomplished by Act of Parliament of the Commonwealth or the State; and (2) That there is no recent precedent for the grant of a Charter to a corporation such as that which was proposed, operating in the Colonies.

Library.

Thirty-three volumes have been added to the Library during the year, including new editions of Williams' Law of Executors and Administrators (the 10th), of Lindley's Law of Partnership (the 7th), and of Smith's Mercantile

Law (the 11th), and including also Local Government Law and Practice, by Collins and Meaden; A Manual of Local Government Law and Municipal Guide (Vol. I.), by Morley and Holmes; and A History of Accounting and Accountants, by Richard Brown, C.A.

Mr. James Martin, corresponding member, has continued to present to the Library the current volumes of the "Transactions" of the London Incorporated Accountants Students' Society and of "The Incorporated Accountants' Journal," whilst the Registrar has presented the bound volume of "The Secretary." The usual series of annual publications has been received from various sources, and placed in the Library without being entered in the catalogue.

Students' Society.

The eighth year of the Students' Society has just closed, and has proved one of the most successful in its history. Nine meetings were held during the year, four of which were devoted to the following lectures:—

"Fraudulent Conveyances and Assignments. By Mr. J. G. Latham, M.A., LL.B.

"Principal and Agent." By Mr. A. C. Morley, F.I.A.V., B.A., LL.B.

"Capital v. Revenue." By Mr. G. A. Hornemann, A.I.A.V.

"Duties and Liabilities of Trustees." By Mr. C. J. Lowe, M.A., LL.B.

The last meeting of the year took the form of a mock meeting of shareholders, and proved very successful, the members being ably assisted by Mr. T. Brentnall, the Society's President, and Mr. J. McA. Howden, who took the position of chairman of directors.

Western Australian Branch.

The branch in Western Australia has now been fully constituted with a local Council of five members, with power to set the company and insolvency papers for local candidates and to assess their answers, and authority to receive all revenue derivable from Western Australia. Mr. S. J. McGibbon occupies the dual position of Chairman and Secretary, and has generously donated his first year's allowance to the funds of the branch.

General.

Mr. Robertson Lawson, C.A., of London, has continued to keep the Council informed on matters of interest arising in Great Britain, and in the year just closed has rendered considerable assistance to the solicitors who had charge of the petition for a Charter.

The Revenue Account discloses a very satisfactory increase in the funds for the year, the sum of £213 5s. 5d. being added to the Accumulated Fund. The amount paid during the year in connection with the petition for a Charter was £13 0s. 10d., and this has been charged to Revenue. Since the year closed the solicitors' bill of costs

in this matter has been received, and amounts to about £240. A considerable proportion of this sum will be borne by the other parties to the application, and steps are now being taken to have the several shares agreed upon.

The following members of the Council retire at this meeting:—Messrs. T. Brentnall, J. Higgins, C. M. Holmes, H. W. C. Smith, and S. J. Warnock; and the following members have been duly nominated for election to the vacancies thus caused, together with that caused by the resignation of Mr. W. Densham:—Messrs. T. Brentnall, J. Higgins, C. M. Holmes, A. R. Kelsey, H. W. C. Smith, and S. J. Warnock.

The Hon. Auditors, Messrs. T. McDonell and E. G. C.

Teele also retire, and Mr. W. J. Blyth has been nominated for election to the office.

The Council recommends to the members that one Auditor only, who shall not be eligible for re-election, be appointed for the future, and that a fee of £5 5s. be voted as his remuneration.

As the nominations do not exceed the vacancies no ballot is necessary in connection with the election.

C. B. NORTON,
President.

17 Queen Street, Melbourne.

31st May 1906.

BALANCE SHEET at 30th April 1906.

[illegible]

Dr. REVENUE ACCOUNT for Year ended 30th April 1906.

[illegible]

JOHN HIGGINS, F.I.A.V., *Hon. Treasurer.*
J. P. BAINBRIDGE, Jun., *Registrar.*

Malbourn, 25th May 1906.

Audited and found correct.

THOS. McDONELL, A.I.A.V. } *Honorary Auditors.*
E. TEELE, A.I.A.V. }

Single Entry.

By Professor JOSEPH HARDCASTLE, C.P.A., L.H.M.

Definition of words used in the text :—

Correspondents.—The persons with whom the proprietor has dealings, so as to become his debtors, or his creditors.

Active.—Any entry showing a benefit to the proprietor.

Passive.—Any entry showing a detriment to the proprietor.

Activities.—Those accounts over which the proprietor exercises his control, i.e., the assets.

Passivities.—The creditor correspondents.

Statistical.—All the accounts comprehending the Assets and the Liabilities, since each of them contains the statistics of its own values.

Economical.—The accounts often called Nominal since they mark the progress, and show especially the economy of the business.

"SINGLE ENTRY," the much despised "single entry"! I can scarcely muster up the courage to stand up in defence of it. I do not remember an author who has had much to say in its favour. The very name is a misnomer, and to use it shows our ignorance of its import. It should be called, as we shall see later on, simple entry. And yet, in spite of this disparagement of it, it must have considerable merit, especially in certain businesses, or it would have gone out of existence long ago. It is generally used by the small retailer, and very often by a business carried on on a most extensive scale. So much for those businesses called "undertakings"—that is, businesses run for the purpose of making money. But when it comes to those businesses whose function is to collect revenue and pay incidental expenses in order to accomplish under the direction of trustees some purpose other than that of making money, then the accounts are very often kept by simple entry, although they may be kept by double entry; and in the accounting in the Courts the presentation of these accounts is by simple entry.

The Treasury Accounts at Washington, the Bank of England Accounts, Municipal Accounts—such as those of the City of New York, &c. &c.—are said to be kept by simple entry. The presentation to the Courts of the accounts of executors and of testamentary trustees, of assignees, of receivers in bankruptcy, and receivers in general, are by simple entry.

Double entry is the bookkeeping adapted to those businesses called "undertakings," for its power of analysis is great, and thus it gives a help in the study of economy as connected with these businesses, in its "Profit and Loss" or other equivalent account, while it provides safety to its capital by providing economic funds to meet wear and tear, to meet losses on sundry debtor accounts,

&c., in its reserve funds. In undertakings the ruling idea is economy, *economy*, ECONOMY.

In the revenue and expenditure businesses the object is not the same. These businesses are not speculative in their character; their funds should be invested rather for safety than for large returns. Special funds bequeathed or devised to them should be kept intact; every part of such businesses should have in view the greatest results in the line which the business has for its object. But trustees come under the law regulating trustees—that is, they must not speculate with the funds of their institution, or if they do, all profits made belong to the institution, but all losses made fall on themselves, and this without balancing the losses against the profits.

Probable Origin of Simple Entry.

There are several motives which induce a business administrator to keep regular registrations of administrative facts. Generally a wise administrator would keep such a registration as responds to the needs he feels of knowing facts relative to the ownership of the business which is administered, although in an absolute sense other registrations may be as important to be kept. We believe that the first in importance of these facts presented to the administrator are the facts which relate to the variations in the net ownership of the business, or those which refer to the purpose itself which the administrator calls for. Next in importance we place those relating to the variations in the values active and passive, constituting the net ownership, such as those which have reference to the means which the administrator uses to effect its purpose. Lastly, we require the given facts relative to special classifications of the values themselves, or of the variations tending to give an analysis more complete of the workings of the administration; that is, the fruits of the administrator's labours. But the importance of the administrative facts which the registration should furnish does not count for so much as the urgency of the facts which the needs of the business call for. Considered under this aspect, it cannot be doubted that the first need to be felt in an administration is that of knowing the situation with respect to correspondents. In operations done on time the need is immediately felt of having always the debits and credits, which are their results, in order to meet the obligations of the first of these and to collect the second. He who should not take a record of them would be likely to fail to meet his obligations; and, on the other hand, would not know from whom and when to receive the restitution of cash loaned, and the value of things sold on time, and such grave inconveniences would soon teach him the necessity of keeping accounts of his credits and debits, or of that which is the same, of the debits and credits which the correspondents have towards him. Also the need is felt of keeping the variations which

occur in the material consistencies, especially in cash and other movable capitals. Finally, although it may be the most important, the need comes last, of keeping also note of that which has reference directly to the proprietor—viz., to know the outcome or issues of the business. Now as the first of these needs arises urgently in any business, it would then be of great importance, it can be believed, that from the time when men commenced to have many and in divers places relations of interest between themselves, they should do their best to supply a mode of recording, rather than depend on the small security of trusting the knowledge of their credits and debits to their memories only.

Often, later, the thought must have occurred to them of keeping note of these things material, and of their variations, in order to verify them; and still later it can be believed that they saw the necessity of keeping these records of materials in connection with putting them in custody of persons whom they made responsible for them. This fact may be verified in extensive businesses, but the extensive businesses obtain only when commerce, agricultural and industrial, is much developed. Lastly, the development of the spirit of speculation, and the progress and the extension of the science of administration, must have suggested the opening also of accounts to the proprietor, which would keep in evidence the economical variations.

If we can convince ourselves that there ought to have been in use in ancient times a registration, we can believe that in those times the system adopted would be without fixed and fore-established rules, which would not tend only to keep the accounts of the debit and credit of correspondents, but the material consistencies would be accounted for, at first by kinds and quantities, and afterwards by values, and we can further suppose that in the progress of time the modes of recording would be improved:

And we may also be convinced that the inventions of the system by simple entry should not be attributed to certain persons, but rather it ought on the other hand to be regarded as the fruit of the efforts by the practitioners, at first to render the registration of debits and credits well ordered towards the correspondents, and then to supply registrations to the new and many needs which began to be felt.

Lastly, while the extent of the registration under different circumstances must have varied, yet the forms of registration were only schedules, which were so simple that any intelligent person could understand any of the forms. Hence, although prior to the time of the introduction of "double entry," the keeping of accounts was simply called account-keeping, after that time it was requisite to distinguish the two, and this was done by call-

ing the earlier simple entry, and the later double entry. But the word "double" suggests the word "single," hence some would call simple entry "single" entry, without any argument to support the name. Now all authors agree that there must be in simple entry records for both correspondents and for cash. In the case of a debtor correspondent paying his bill, both the Correspondent Account and the Cash Account must receive a registration; that is, the registration is double, and in this instance single entry is double entry.

What Constitutes Simple Entry?

Some authors who have a predilection for the personalistic theory of registration of accounts tell us that there are four kinds of simple entry, viz., that—

First, of the proprietor.

Second, of the administrator in his relation to the proprietor.

Third, of the administrator in his relation to third persons.

Fourth, of the third persons—viz., of the custodians and correspondents.

First, of the proprietor. When we speak of the proprietor's assets and his liabilities, we speak from the proprietor point of view—a Cash Book with the receipts on the credit side, and payments on the debit side; with all assets considered as credits and all liabilities as debits, the view being that the proprietor should take credit for all his belongings, and be debited for his obligations.

Second, of the administrator in his relation to the proprietor. In this case all the accounts are kept as the administrator's accounts in relation to the proprietor. The administrator considers himself as trustee in his relation to the proprietor. He debits himself for all the assets of the proprietor coming into his hands; that is, he holds himself accountable for them, and this may be done either for the total assets, for groups of assets, or for individual assets. He takes credit for all the liabilities he pays, thus diminishing his responsibility to the proprietor; and, lastly, he debits himself for all increases and credits himself for all decreases of the capital of the proprietor. As a consequence his accounts always show his net responsibility to the proprietor.

Third, of the administrator in his relation to third persons. The third persons are custodians of material consistencies, and debtor and creditor correspondents. Here the administrator as the representative takes credit for all the assets and debits himself for the liabilities.

Fourth, of the custodians and correspondents. Here the accounts of the custodians and debtor correspondents are debited, and those of the creditor correspondents are credited. When the custodians part with the goods in their possession, the accounts are freed from responsibility to that extent; and when the debtor correspondent

liquidates in part or entirely his obligations he is freed from his obligations to that extent. When the creditor correspondent is paid in whole or in part, his claim is extinguished to that extent.

In double-entry bookkeeping we find in various statements some of the ideas embraced in these four kinds—*e.g.*, the English Balance Sheet represents the ideas of No. 1; the American and continent of Europe Balance Sheets represent those of No. 4.

According to other authors, simple entry is that which gives only the statistical situation of the ownership, and not the economical, or which puts in evidence the statistical effects produced by administrative facts. Simple entry should hence be only the last among the four indicated above—*i.e.*, that which develops the accounts of the custodians and the correspondents, or, in other terms, which gives only the credits and the debits of the correspondents, and the entrance and exits of the material values.

Other authors limit largely the field of simple entry, and define it as that mode of entry which has for its purpose the keeping in evidence the situation of the business with respect to persons with whom business is transacted, the fulfilment of which is in the future—*i.e.*, it will be liquidated in the future by means of cash. Finally, other writers enlarge the field, and give a negative definition of simple entry. For them simple entry is that which is not entirely double entry—*i.e.*, that which does not give wholly the two situations, the statistical and the economical.

This last idea of simple entry is that adopted by the better class of writers. An analysis of it causes us to understand how innumerable modes of entry quite dissimilar among themselves, either by their contents or by the results which they furnish, and not having other points in common beyond, are each of them short in some account, so as not to be able to form double entry.

According to this idea, simple entry might either keep account of a very few of the effects produced by administrative facts, or one which might comprehend the greater part of them, or a mode of entry which might furnish a single statistical situation, or one which might furnish completely the statistical situation, and a part of the economical, or also a part only of this, and a part of that.

Massa says, simple entry is that which does not give directly and completely both the situations of the business; and among the divers modes of entry which are comprised in this large definition he calls simple entry complete, that which takes note either of all the statistical effects, or of all the economical produced by administrative facts. He calls that which practice has adopted in preference "common simple entry."

Common Simple Entry.

Common simple entry, as is used yet in many businesses, has this characteristic, that it does not keep note of the economical effects produced by the administrative facts. So far as to the statistical effects, it keeps of them a record by means of opening accounts to correspondents, and to material values, only neglecting among these latter those values which by their nature are only very rarely liable to undergo variations. The accounts opened are placed together in various books according to the nature of the values to which they refer; and every book stands absolutely by itself, without depending in the least on the others. Simple entry consists, therefore, of a series of books not having a bond between them, and each of them has a purpose by itself, which it seeks to satisfy in the best way possible.

This characteristic fact of simple entry of wanting every bond of comparison leaves to him who uses it a great liberty in the selection of the books to be kept, of adopting with great facility the registration of every need of the business and of every administrative idea; but it stops there, and this is its great defect, that every mode of controlling the exactness of the administrative facts and of having a perfect reckoning (a Balance Sheet and a Profit and Loss Account), which is the final and supreme purpose of all registrations, is wanting. A species of control, however, is sometimes employed, as we shall see hereafter, by means of a controlling account.

From what has been explained, it is seen that one cannot give precisely the number and nature of the books of which simple entry consists; all that is left to the initiative of the person who does the registration, and he in these values ought to take cognisance of the nature of his business and of the exigencies of the administration. In general, then, the books with a chronological order are two: the book of original entry (the Waste Book) and the Journal; and with the order systematic there is a book for the correspondents, and one for every other kind of value.

To illustrate simple entry we will consider the accounting before the Courts of the following:—

- (1) Executors or administrators and testamentary trustees.
- (2) Voluntary assignments under an assignee.
- (3) Receiver in bankruptcy.
- (4) A business in the hands of a receiver.

These may vary somewhat in the different States, but essentially they will be regulated by the same principles.

(1) Executors or Administrators and Testamentary Trustees.

We will consider these three persons under the generic name of trustee. Generally the law regards the trustee as the legal owner of the property committed to his charge,

subject to carrying out the purpose of his trust, while the beneficiaries are the equitable owners, who can apply to the Court to compel the trustee to carry out his trust.

At common law a trustee being the absolute legal owner of the property could exercise all the powers which an absolute owner might, but in a Court of Equity the rights of the beneficiary are paramount, and consequently a trustee will be restrained from exercising any power inconsistent with the beneficiary's rights; hence a trustee may be said to have only those powers which he will not be restrained from using.

The trustee acts in a dual capacity, viz.:—

- (1) As an owner, or the business man for the beneficiaries.
- (2) As a custodian for the beneficiaries.

The trustee takes an absolute estate in personal property; but in real estate he will take a large enough estate to administer the trust and no larger.

Hence the law states what shall constitute the personal property or assets, and with these assets, and the fruits of these assets, such as interest and dividends, also the fruits of real estate—*i.e.*, rents, and the incidents appertaining to real estate, such as repairs—the trustee is chiefly concerned. And as these things with which he is concerned very often go to different beneficiaries, the personal property to one class and the income to another, in his accounting they should be kept apart.

The beginning in all accounting is taking an inventory. Here all the assets must be recognised, and values put upon them by appraisers, but no notice in the inventory is taken of the creditors of the estate, as the law provides the discovery of them by legal publication. The inventory may be considered as Schedule No. 1. Of course, it may be amended by the discovery of other assets.

The account in the Court may be explained in the following way. I (as owner) debit myself (as custodian) with the inventory, and its amendments, also with all increase of the assets, from putting them into a state for liquidation, or from any other cause, and further with the income received by me for distribution, and this gives the whole of the property coming into my hands.

I have now to show what becomes of this property, and this is explained in the following way:—I (as owner) credit myself (as custodian) with all losses, expenses, payments, &c. The debit means held responsible, and by credit means freed from responsibility, the credits being taken from the debits, gives the residue held for distribution.

The Code of Civil Procedure of the State of New York lays down the following principles to be followed in the judicial settlement of an account of an executor or an administrator:—

(1) That the items allowed to the accounting party for moneys paid to creditors, legatees, and next-of-kin for necessary expenses and for his services are correct.

(2) That the accounting party should be charged with all the interest for money received by him, and embraced in the account for which he was legally accountable.

In this he is ordered as custodian to be charged or debited for all the interest for money received by him.

(3) That the money charged to the accounting party, as collected, is all that was collectible at the time of the settlement on the debits stated in the account—*i.e.*, he as custodian is to be charged or debited with all debts collected.

(4) That the allowance made to the accounting party for decrease, and the charges made against him for increase in the value of the property, were correctly made.

These principles in actual practice are stated in the account of the executor as follows:—

I charge myself:—

With amount of inventory	£
With amount of increase as per Schedule A ...	
With amount of income as per Schedule A ...	
Total charges	£

The question now is, What has the executor done with the total assets with which he is charged?

The answer is, there has been a loss on sales, some debts have not been collected, some article of the inventory has not been sold, and other articles have been lost. Of these the losses on sales and the articles lost are irretrievable, and if these losses are through no fault of the executor they are allowed to go as a diminution of the total charges. The debts given are non-collectible, and the goods unsold can be turned over to those entitled to receive them, and thus further diminishing the total charges against him.

Money paid out by him, if correctly paid by him, is the next portion of the responsibility from which he is freed.

The above are stated as follows:—

I credit myself:—

With amount of losses on sales as per Schedule B	£
With debts not collected as per Schedule B ...	
With articles mentioned in said inventory unsold as per Schedule B	
With articles mentioned in said inventory lost, as per Schedule B	
With funeral expenses and other expenses, as per Schedule C	
With money paid to creditors as per Schedule D	
With money paid to legatees, widow, or next-of-kin, as per Schedule E	
Total credits	£

The difference between total charges and total credits equals the total unaccounted for, and for which the executor is still accountable.

Add to this last articles unsold (as they may have a value) and debts not collected (as they may have value).

Total to be distributed £

This distribution is made under the order of the surrogate, as to the amounts, and to whom they shall go. In this accounting we have no trace of double entry, all is per simple entry. There is provision in the schedule for all those facts, which must enter into the account, so that the surrogate, in looking over the account in connection with the schedules, shall be in a position to examine the correctness of the schedules, and have such information as to give the final order for the final distribution.

(2) *Voluntary Assignments under an Assignee.*

For the nature of the accounting of an assignee I cannot do better than produce the form of accounting for New York State, from Burrill on Assignments, calling attention to the similarity between it and the accounting of executors, the variations being obvious from the nature of each in certain points varying.

In executors' accounting income forms an important part, for the reason that the personal property often goes to one class of persons and income to another. In assignee accounting the income as such is not recognised, for the residue after payment of expenses goes to creditors. In executors' accounting the appraised value of personal property forms the inventory, no notice being taken in inventory of the creditors. The assignee's inventory contains the nominal assets—*i.e.*, the assets as they are found in the books of the assignor; the actual assets, that is, the appraised value as a break up concern, is arranged alongside of nominal value. Accompanying the assignee's inventory is a list of the creditors, with the amount owing to each.

Schedule A contains a statement of property contained in inventory, sold, with the prices and manner of sale; it also contains a statement of all the debts due said estate, and mentioned in said inventory, which have been collected, and also of all interest for moneys received by assignee for which he is legally responsible.

Schedule B contains a statement of all property belonging to said estate which have come into assignee's hands, not included in inventory.

Schedule C contains a statement mentioned in inventory, not collected or collectible, also a statement of any property mentioned in said inventory unsold.

Schedule D contains a statement of all moneys paid by assignee for all necessary expenses for estates, together with the reasons and object of such expenditure.

Schedule E contains a statement of all claims of creditors presented to assignee, together with the names of the claimants, the general nature of the claim, with the amount and date thereof, and a statement of all moneys paid by assignee on account of

such claims, with the names and the time of such payment.

Schedule F contains a statement of all other facts affecting the assignee's administration of insolvent's estate, the assignee's rights, and those of others interested therein.

Here follows the account :—

I charge myself :

Amount as per inventory	...	...	...	...	\$
Increase as shown by Schedule A	...	...	...	...	
Property not included in inventory as per Schedule B	...	...	...	...	
Total charges	...	...	...	...	\$

I credit myself :

Amount of debts not collected, Schedule C	...	...	...	...	\$
Amount of Schedule D	...	...	...	...	
Amount of Schedule E	...	...	...	...	
Leaving a balance of	...	...	...	...	\$

To be distributed according to the provisions of said assignment, subject to the deductions of the amount of commissions and the expenses of the accounting.

(3) *Receiver in Bankruptcy.*

Here, again, the accounting is by means of schedules and a resultant account.

The first five schedules relate to liabilities of the bankrupt, both actual and contingent, secured and unsecured.

Schedule A (1) contains preferred claims, and is subdivided into :

- (1) Taxes and debts due United States.
- (2) Taxes due States, Counties, Districts, and Municipalities.
- (3) Wages.
- (4) Other debts preferred by law.

Schedule A (2) contains secured claims.

Schedule A (3) contains unsecured claims.

Schedule A (4) contains notes and bills which ought to be paid by other parties thereto.

Schedule A (5) Accommodation paper.

Schedule B contains the property of the bankrupt.

Schedule B (1) Real estate.

Schedule B (2) Personal property, and is sub-divided into :

- (a) Cash on hand.
- (b) Bills of exchange, promissory notes, or securities of any description.
- (c) Stock in trade.
- (d) Household goods and furniture, household stores, wearing apparel, and ornaments of the person.
- (e) Books, prints, and pictures, &c.
- (f) Horses, cows, sheep, and other animals.
- (g) Carriages and other vehicles.
- (h) Farming stock and implements of husbandry.

- (i) Shipping and shares in vessels.
 - (h) Machinery, fixtures, apparatus and tools used in business.
 - (j) Patents, copyrights, and trade-marks.
 - (m) Goods or personal property of any other description.
- Schedule B (3) *Chose in action*, and sub-divided into:
- (a) Debts due bankrupt on open account.
 - (b) Stocks in incorporated companies, interest in joint-companies and in negotiable bonds.
 - (c) Policies of insurance.
 - (d) Unliquidated claims of every nature.
 - (e) Deposits of money in banking institutions and elsewhere.

Schedule B (4) Property in reversion, remainder, or expectancy, &c., with the supposed values of bankrupt's interest.

Interest on land, personal property, property in money, stock shares, bonds, annuities, &c., the supposed values of which are summarised.

The following in same schedule:—

- (1) Property hereto conveyed for the benefit of creditors.
- (2) What sum has been paid to counsel, and to whom, for services rendered.

Schedule B (5) Statement of properties claimed as exempted.

Schedule B (6) List of books, papers, deeds, and writings relating to bankrupt's business and estate.

These six schedules marked B give full information as to the property in which the bankrupt has or may have an interest.

The receiver or trustee, being an officer of the Court, must act under the direction of the Court, and in order to realise on the property does so under the instruction of the Court. After the realisation comes the liquidation, and his account takes the form—

Estate of _____ in bankruptcy in account with _____, Trustee.

This account is debited with all the disbursements and credited with all the realisations.

(4) *A Business in the Hands of a Receiver.*

He should always, at the commencement, make and file an inventory of all the property coming into his possession at its appraised value, and at any other time another inventory of property coming into his hands afterwards. He should file an annual report, especially if the estate is large, and the administration continues many years; when his administration is ended he must make his final accounting before he can obtain his discharge.

"The proper practice," says Beach, on the final accounting, "is for the Court, after it has reached a conclusion, to order the receiver to account, on notice to all parties interested, and upon such accounting, all questions can

"be settled, and the findings of fact and conclusions of law relating to such matter can be embodied in the decision of the Court upon the merits of the action. The final decree should settle what compensation the receiver is to have, what expenditures he can be reimbursed for, how he shall be paid, whether out of the funds in his hands, or by one of the parties to the action."

"A receiver should present his accounts in such condition as to inform the parties interested, so that they may judge of their correctness. For all his charges against the trust fund the receiver should show satisfactory vouchers and proofs. He must take proper receipts from the persons to whom he makes payments. The receiver is held to great strictness in respect to his accounts; and a reason for such failure should be given. The vouchers should be filed with the account; and for such items as there are no vouchers the receiver should file a verified statement showing to whom, for what, and when, such was paid, and the verifications should be positive, not merely upon belief."

These aforesaid statements do not show the slightest reference to double-entry bookkeeping, nevertheless these accounts may be kept advantageously by double entry.

(*The Journal of Accountancy*, New York.)

Company Law Amendment Committee.

Report of Committee.

(Continued from page 53.)

37.—We also think that all mortgages and charges on landed property and book debts ought in future to be subject to the same registration as the four classes already included in Section 14 of the Act of 1900. By the phrase "book debts" we do not intend to include those represented by negotiable instruments: on the contrary, we intend that it should not be necessary to register mortgages or charges of such debts.

38.—If these amendments were made in the law, traders and others would be far better able to inform themselves as to the financial position of a company with which they might have, or propose to have, dealings.

39.—We think it right to refer to the objection which has been raised to floating charges and the demand made for their abolition. During the last forty years, as we have already observed, these charges have come into very general use. The principle upon which the validity of these securities rests is an old principle, and their validity was finally established by the Court of Appeal in 1870, but some of their incidents have only within recent years been judicially ascertained. A floating charge is usually in the

form of a charge on the undertaking and all the assets, present and future, of a company. So long as the holders of the charge do not interfere the company carries on its business, and is ordinarily able to give a good title to purchasers, and to mortgagees taking a charge upon property specifically described in the charge, and can pay to creditors, and others, money in the ordinary course of its business. A floating charge is not on any specific property, but upon the property for the time being and from time to time of the company, however that may be changed in the ordinary course of business. It is a form of security which is now almost universally used by companies for raising money, and experience has shown that it meets in an eminent degree the wants both of borrowers and lenders, and of the business world generally. Most of the great manufacturing companies which raise money on debentures include therein a floating charge, sometimes with, and sometimes without, specific security. In not a few cases the amount raised on debentures containing a floating charge by a company amounts to several millions, while issues of several hundred thousand pounds are quite common. The great advantage offered by the floating charge is that, where there is a going business, the owner of a floating charge can, if necessity arises, obtain the appointment of a receiver and manager of the undertaking with a view to its realisation, and thus realise it as a going concern, instead of being obliged to stop the business and realise it, or the assets charged to him, as an interrupted, and thereby probably ruined concern. Moreover, there are many cases in which the floating charge is the only security which is practically available to a company for raising money, as where almost the whole assets of the company are used in its trading operations, and fluctuate from day to day. The Committee believe that some hundred millions of money are now outstanding invested on the security or part security of floating charges, and a glance at the newspapers which record the registration of mortgages and charges (including floating charges) under the Companies Act, 1900, will show the extraordinary popularity of this form of charge.

40.—Cases of insolvency sometimes occur, and then the unsecured creditors very commonly find that they are postponed to creditors having floating charges, whether recently created or not, and that the assets are insufficient to meet such charges. There are, too, some cases in which a floating charge is framed and utilised for the purpose of entrapping unsecured creditors, as where the holder of a floating charge is in close touch with the company and deliberately watches the position, and then, if any unsecured creditor seeks to enforce payment, promptly applies for the appointment of a receiver. Several cases of this kind have come before the Courts, and in particular Mr. Justice Buckley in the *London Pressed Hinge Company, Lim.* (1905, 1 Ch. 576), drew attention to the cases of this kind. It would be very desirable to stop

such fraudulent conduct, but we think it would be a mistake to do anything which would, in order to preclude the comparatively small number of fraudulent schemes, detrimentally affect the great body of the honest companies carrying on business in the United Kingdom.

41.—If the practice of raising money by floating charges had recently commenced, or had been adopted only to a small extent, some of us would have been inclined to prohibit this mode of raising money by a security upon future assets. The majority of us, however, think that for the most part floating charges, whilst facilitating largely the raising of money for industrial and co-operative and financial purposes, do not (especially having regard to the stringent provisions as to registration) interfere with the general creditors of the company to such an extent as to justify the recommendation of their abolition. Nor do we recommend any provision making void floating charges as against existing creditors of the company, that is, existing at the time when the floating charge is created. We think that this would in a great measure destroy the essential value of a floating charge, and that it would in a winding-up divide the unsecured creditors of the company into several classes and would lead to other complications which would be objectionable. We cannot recommend that unsecured creditors should be given priority over floating charges, for this again would destroy the value of such charges; nor can we recommend that debts incurred within, say, a year before the commencement of a winding-up or the enforcement of a floating charge, shall have priority as against floating charges. But, upon the whole, the majority of us think that it would be desirable to amend the law by providing that a floating charge given within three months before the commencement of the winding-up of a company shall be invalid, except to the extent of the cash actually advanced at, or subsequently to, the creation of the charge, together with interest at a rate not exceeding 5 per cent. per annum, unless it is proved that the company was solvent at the time the charge was created. The majority of us think that such an alteration of the law would, without seriously hampering companies which desire to borrow, prevent to some extent the giving of floating charges for the purpose of securing past debts. No doubt Section 164 of the Companies Act, 1862, which deals with fraudulent or undue preferences, may in some cases afford sufficient protection against such transactions, but we think that there are a good many cases in which security for a past debt is given in connection with an advance, or further advance, or other consideration, which would exclude the operation of Section 164, and that it is desirable to provide for these cases more effectually.

42.—We consider that Section 14 of the Companies Act, 1900, should be amended and redrafted, for the true construction of some of the provisions of the section is obscure. We make the following suggestions for amendment:—

(1) Sub-section (1) provides for the filing for registration of the mortgage or charge, whereas the intention, no doubt, was to provide for the production of the document to the Registrar and its subsequent return. It will be desirable to amend the section accordingly.

(2) In the case of a mortgage or charge created abroad, it should be sufficient to register the same by filing particulars thereof within twenty-one days after their arrival in the United Kingdom.

(3) Sub-section (4) should be redrafted so as to bring it into accord with the decision in *Harrogate Estates Co.* (1903, 1 Ch. 498).

(4) In Sub-section (6) it should be made clear that there is no obligation to endorse on any debenture or debenture stock certificate a copy of any certificate of the Registrar obtained subsequently to the issue of such debenture or debenture stock certificate.

Creditors' Winding-up Petitions.

43.—Greater facilities are also wanted, we think, for winding-up insolvent companies at the instance of creditors whose debts are not immediately payable. As things stand, a creditor must, in order to obtain a winding-up order, be in a position to prove that there is a debt presently payable to him from the company. If his debt is due on a current bill, bond, or debenture, the time for the payment of which has not yet arrived, he has no remedy by a winding-up petition, and this although the company may be notoriously insolvent. In the meanwhile the company may be disposing of its assets to his prejudice or contracting new liabilities, and when at last his debt matures and he obtains a winding-up order, he may find that the interim transactions, having been completed three months before the winding-up, cannot be impeached. In the case of life assurance companies the Life Assurance Companies Act, 1870, enables the Court to order a winding-up on the application of any one or more policy-holders, upon giving proof to the satisfaction of the Court that the company is insolvent; and in determining whether or not the company is insolvent the Court is to take into account the company's contingent or prospective liability under policies and annuity and other existing contracts. We think that the principle of this section should be extended to the case of other companies, and that a creditor, whose debt is not yet payable, should be at liberty to present a petition for winding-up, and the Court be empowered to make an order, where insolvency is proved, taking into account the debts due and to become due. We think, too, that it should not be a bar to a winding-up order that the assets are mortgaged to their full value, and, moreover, that it should be no bar to a winding-up order that the petitioner, whether contributory or creditor, fails to prove that there are assets. These amendments, if adopted, would, we think, make it possible to put an end by winding-up proceedings to many objectionable companies.

Audit.

44.—We consider that the auditors' "certificate" and "report" referred to in Section 23 of the Companies Act, 1900, should form one document, which, if not published with the Balance Sheet, should be referred to by the auditors at the foot of the Balance Sheet as having been rendered by them and be read at the meeting; a copy should also be open to the inspection of any shareholder asking for the same. We also consider that the words, "they have obtained all the information they have required" should be substituted for the words, "all their requirements as auditors have been complied with." And after the words "correct view of the state of the company's affairs" the words "according to the best of their information, and the explanations given to them and," should be inserted, and the majority of us think that notice of the nomination for election of any person as an auditor other than the retiring auditor should be given to the company not less than fourteen days before the annual general meeting, and not less than seven days' notice thereof should be given to the shareholders.

Private Companies.

45.—A large and increasing proportion of the companies under the Acts are classed in common parlance as private companies. The number of members of these companies generally does not exceed twenty, and very commonly is not above seven. The regulations of such companies usually restrict more or less the right to transfer shares. The capital for working such companies is subscribed privately, but they cease to be private companies when they appeal to the public to subscribe for their shares. A large number of such companies are, year by year, formed to effect what are called conversions of existing businesses into companies, and many well-known concerns are carried on as private companies—for example, Harland & Wolff, Lim.; Huntley & Palmers, Lim.; Crosse & Blackwell, Lim.; J. & J. Colman, Lim. But the process of conversion is not confined to large and well-known concerns; it extends also to moderate and to comparatively small concerns. A further large proportion of private companies is formed for co-operative enterprise—*c.g.*, where an inventor wants capital, and a few others, willing to provide funds to test or work the invention, join with him in forming a private company for the purpose, or where several persons see their way to starting some new undertaking, and concur in forming a private company as the readiest and safest mode of association.

46.—We have considered whether private companies should be exempted from the operation of any of the additional provisions of law which we recommend in this report. The majority of us think that they should not be compelled to file the preliminary statement recommended in the case of public companies in paragraph 17 of this

Report. It is also urged that private companies should not be bound to file any statement of their affairs in the form of a Balance Sheet as indicated in paragraph 33, on the ground that, as they do not appeal to the public for subscriptions, there is no need for publishing their private affairs, and that the disclosure involved in the filing of the documents would, or might, seriously prejudice their interests. On the other hand, it is urged that in the interest of creditors, and of persons who may become creditors, it is undesirable to grant such exemption, seeing that private companies are just as likely to be insolvent as public companies, and that, if it is desirable to promote further disclosure in regard to public companies, there is no sufficient reason for exempting private companies. Upon the whole, the majority of us think that there should not be any such exemption as regards private companies.

47.—We have also considered whether private companies should be placed under special restrictions so as to discourage their formation for fraudulent and illegitimate purposes. Considering, however, the extreme difficulty of discriminating between honest and dishonest private companies, we do not consider that it would be desirable to apply any such special restrictions. No doubt the Acts will be abused by unscrupulous persons, but we think that it would be a mistake to impose special restrictions, which might operate to discourage the honest companies, especially as those who form fraudulent companies would scarcely be deterred by any such special restrictions. We hope that the improved facilities for winding up, which we suggest in another part of this Report, may assist in weeding out some of the objectionable private companies, and may operate as an obstacle to their formation.

48.—We have also considered whether it would be expedient to allow a private company to be formed with a less number than seven members. In the United States of America and in several foreign countries, and we believe in some of the Colonies, a limited company may be formed with less than seven members, and now that it is settled by decision of the House of Lords that there is nothing contrary to the Acts in a private company consisting of seven persons, of whom one or two hold all the capital except a few shares, it seems that to insist on seven as the minimum number does not afford any additional security for the solvency or stability of the concern, seeing that the stake of the majority of the members may be purely nominal. The late Sir George Jessel, in his evidence before the Select Committee of 1877 on the Companies Acts, was in favour of allowing any number—one, two, or more—to be registered as a limited company. And no doubt to alter the Act so as to allow of this would get rid of some forms and ceremonies which are of little practical value, but upon the whole the majority of us do not consider that there is any sufficient reason to alter the law in this

respect. We believe that the obligation to make and keep up the number of members to seven is not found in practice very onerous or inconvenient.

49.—We have also considered whether some relief as regards the *ad valorem* stamp duty charged upon a transfer of property to a private company on its formation might not with advantage be granted. A private company has to pay the not inconsiderable fees on registration, including an *ad valorem* duty of 5s. per cent. on its capital, and when registered it affords to the Exchequer a continuing source of revenue from stamps on annual returns to the Registrar, statements of increase of capital, transfer of shares, and otherwise. But in many cases the initial step of registration is, we understand, impeded by the heavy duty on transfer of the property—namely, 10s. per cent. The founders of a private company feel the hardship of this duty, more especially where they are themselves the only, or almost the only, shareholders in the company and are also the owners of the property to be transferred. In France exemption has for many years been allowed in such cases, the property being treated as an *apport*. We think that the revenue would not be diminished by the exemption, for the number of companies registered would increase. Perhaps, however, it may be suggested that if exemption were granted as above indicated there would be danger of the private company, once having obtained exemption, shortly afterwards developing into a public company, and so escaping by an indirect process the duty which it would otherwise have to pay. We think, however, that this might be met by only granting a conditional exemption which would become void unless, at the end of two years, it was proved to the Revenue authorities that the company still remained a private company.

50.—We have also considered whether private companies should be granted any further advantages not conferred on public companies, and we think not, but we recommend that they should have the right possessed by other companies of paying for placing or underwriting shares, as indicated in paragraph 30.

51.—If any distinction is made in the law applicable to public and private companies, it will be necessary to define a private company, and for this purpose we think that the definition should be a company consisting of not more than thirty members, and by its regulations restricting the right of transfer of shares, and prohibiting (a) the increase of the number of its members to more than thirty, and (b) any invitation to the public to subscribe for any shares, debentures, or debenture stock of the company. Thus defined, a private company would, by registration as such, be precluded from taking advantage of its registration to convert itself without publicity into a public company, whether by disposing of its shares wholesale or otherwise; and at the same time it should be enacted that

the members may, by passing a special resolution, and complying with the law relating to public companies, including the obligations referred to in paragraph 33 of this Report, alter its character so as to become a public company.

Reduction of Capital Duty.

52.—As regards stamp duties, we think that the capital duty on registration should be reduced from 5s. to not more than 2s. 6d. per £100 nominal capital. We consider that the *ad valorem* duty payable on the registration of limited companies should be made payable, in the case of companies proposing forthwith to issue a prospectus, by two instalments—namely, two-fifths on registration, and three-fifths when the company obtains the certificate that it is entitled to commence business. This would encourage the registration of companies in that the promoters would know that, if the company did not float, they would not have to pay the second instalment.

Consolidation.

53.—We think that it is of great importance to consolidate the Companies Acts, 1862 to 1900—namely, the Companies Act, 1862; the Companies Seals Act, 1864; the Companies Act, 1867; the Joint Stock Companies Arrangement Act, 1870; the Companies Act, 1877; the Companies Act, 1879; the Companies Act, 1880; the Companies Colonial Registers Act, 1883; the Companies Act, 1886; the Companies Memorandum of Association Act, 1890; the Companies (Winding-up) Act, 1890; the Directors' Liability Act, 1890; the Companies (Winding-up) Act, 1893; the Companies Act, 1898; and the Companies Act, 1900. It would be a great advantage also, if possible, to include in the consolidating Act such of the amendments recommended in this Report as may be approved by Parliament; but if this would involve delay, the majority of us think it would none the less be desirable by legislation to consolidate the Acts as they stand.

Arrangements and Reconstructions.

54.—Where a company is in difficulties it often happens under the present law that there is no remedy except liquidation, with its attendant disadvantages, although large majorities of its creditors and shareholders may be willing to consent to an arrangement for rehabilitating the company; for it is only in a winding-up that the Joint Stock Companies Arrangement Act, 1870, becomes available. It seems anomalous, and is in practice found inconvenient, that a winding-up should be required as a preliminary condition to an arrangement between the company and its creditors. We think that the provisions of the Joint Stock Companies Arrangement Act, 1870, should be extended so as to enable a company, without going into liquidation, to effect a compromise or arrangement with its creditors subject to the sanction of the Court, and with the safeguards imposed by the Act.

55.—We also consider that a company should be allowed to reorganise its capital without liquidation, as, for example, by consolidating several classes of shares. But any such power should be exercisable only by special resolution sanctioned by the Court.

56.—We further recommend that a company whose whole issued capital has been called up should be allowed, with the sanction of a special resolution but without going into liquidation, to make an assessment upon its shares of an amount which should be payable by all those who desired to continue the venture, but that there should be no power to compel those who do not assent to submit to the imposition of any further liability. This right should also be subject to a provision that the interest of those who dissent within a fixed period should be valued, and their shareholding reduced to fully-paid shares of an amount equal to such value, which should be fixed either by agreement between the company and the dissentients or by arbitration; but there should also be a right of appeal to the Court by any aggrieved party.

Implication of Subsidiary Objects in Memorandum of Association.

57.—Another subject which we have considered is in relation to the specification in the memorandum of association of the objects of a company. The Act of 1862 requires the memorandum, amongst other things, to state the objects for which the company is formed, and in the schedules to the Act examples are given of memorandums of association in which the objects are stated very concisely.

58.—At first it was not clearly understood that the specification of the objects set forth in the memorandum of association effectually limited the scope of the company's operations by restricting its powers to those things which were expressly or impliedly authorised by the objects as set forth. But in 1875, in the well-known case of *Ashbury Railway Carriage and Iron Co., Lim. v. Riche* (L.R. 7, H.L. 653), it was finally decided that the specification of the objects in effect limited the powers of the company, and accordingly that a contract beyond those objects was void and incapable of ratification. "A statutory corporation," said Lord Selborne in that case, "created by 'Act of Parliament for a particular purpose is limited as 'to all its powers by the purposes of its incorporation as 'defined in that Act.'" This decision has led to the elaboration of objects. People became apprehensive that anything not expressly authorised by the memorandum of association could not be held within the objects of the company. Therefore, in framing the memorandum of association, it became customary not merely to set out in short general terms the general objects, but to enter into considerable detail and to set forth also the various objects which might otherwise have been implied, and beyond this

it became customary to set out many subsidiary objects, which experience showed that it was desirable to specify in order to ensure the possession by the company of powers which are commonly required. We think that, for the convenience of the public, it would be desirable to embody in a statutory schedule or section a statement of those subsidiary objects which, according to ordinary practice, are now generally inserted in the memorandum of association, and to enact that, save so far as otherwise provided by a memorandum of association, those objects shall be treated as implied therein. In the result, in a large number of cases, it would be possible to express the objects of the company in an extremely concise manner, and many people might be satisfied with the implied objects instead of resorting to the over-elaboration of objects now so commonly observed.

Table A.

59.—The First Schedule to the Companies Act, 1862, contains a set of regulations applicable to a company with a capital divided into shares, and the Act provides in Section 14 that the articles of association of a company may adopt all or any of the provisions contained in Table A. The Act further provides in Section 15 that, in the case of a company limited by shares, if the memorandum of association is not accompanied by articles, or in so far as the articles do not exclude or modify the regulations contained in Table A, such last-mentioned regulations shall, so far as applicable, be deemed to be the regulations of the company, and then in Section 71 the Board of Trade is empowered to make alterations in the tables and forms contained in the First Schedule, including therefore Table A, and it is provided that "Any such table when altered shall be published in the *London Gazette*, and upon such publication being made such table . . . shall have the same force as if it were included in the schedule to this Act, but no alteration made by the Board of Trade in the Table marked A . . . shall affect any company registered prior to the date of such alteration, or repeal, as respects such company, any portion of such table." The regulations in Table A having now been in force unaltered for more than forty years, it is found, and has for many years been found, that in practice they require considerable alteration to make them available for the usual requirements of a company. We think, therefore, that the time has now come for amending Table A so as to bring it up to date, and as far as practicable render it available for use without being supplemented by voluminous supplemental regulations. The Board of Trade, we understand, concur in this view, and under their instructions a revised Table A has been drafted by Mr. R. J. Parker and Mr. A. C. Clauson, and we have had an opportunity of perusing such revised form, and of indicating certain modifications therein which we considered expedient. The

counsel above named have considered our suggested modifications and have settled the revised form in the shape in which it appears in the schedule to this Report. We consider that the revised form as so settled may with advantage be adopted by the Board of Trade under the statutory power, or in any enactment passed pursuant to the recommendations contained in this Report.

Minor Amendments.

60.—We think that it should be enacted, not only that an annual meeting should be held in each year, but that there should not be an interval of more than fifteen months between any two annual meetings, and also that there should be a penalty imposed for not holding the annual meeting according to law.

61.—We think that, in cases where it may appear desirable, the Court should have power to call or direct the calling of a general meeting of a company.

62.—We think that Section 51 of the Companies Act, 1862, should be amended by giving the right to any member to demand a poll, except in cases where a larger number, not exceeding five, is required by the articles of association, and also by the substitution of the words "persons for the time being entitled to vote" for the word "members."

63.—We suggest that Section 53 of the Companies Act, 1862, should be amended so as to extend the provisions thereof to an extraordinary resolution.

64.—Sections 65 and 66 of the Companies Act, 1862, should be amended so as to remove any doubt as to the mode of enforcing penalties in Dublin.

65.—It has been suggested by the life assurance companies that any life assurance company, duly making returns to the Board of Trade under the Life Assurance Companies Act, 1870, ought to be exempted from compliance with the provisions of Section 44 of the Companies Act, 1862, and we recommend that such exemption should be granted.

66.—We consider it desirable to amend Sub-section (3) of Section 3 of the Companies Act, 1900. Under that section a director who, after the expiration of the prescribed period, acts as a director of a company is to be liable to pay to the company the sum of £5 for every day during which he so acts. Doubts have arisen as to the meaning of this provision—whether it means £5 per day whilst he continues in office without qualification, or £5 for each day on which he acts whilst unqualified, as by attending board meetings or otherwise: these doubts should be removed. Moreover, we think, upon the whole, that it would be desirable to modify the sub-section so as to make the £5 per day a penalty; as the section stands the £5 a day is a statutory debt due to the company.

67.—We consider that Sub-section (4) of Section 6 of the Companies Act, 1900, should be amended so as to preclude

all question as to whether a company may receive application moneys in respect of debentures offered for subscription, and allot both shares and debentures at the same time.

68.—It appears to us that it would be desirable to relax Section 7 of the Companies Act, 1900, so that, where a proper contract in writing constituting the title of the allottees is not in fact made before allotment, and the company is therefore unable to comply with the section, the company may stop penalties by filing particulars of the contract in fact made.

69.—Section 9 of the Companies Act, 1900, omits to provide a penalty for omission to file with the Registrar a signed copy of a prospectus before it is issued. We think it important that a penalty should be imposed.

70.—We think that Sub-section (4) of Section 10 of the Companies Act, 1900, should be amended by substituting the words "for shares or debentures of the company" "whether with or without the right to renounce in favour of outsiders" for the words "for further shares or debentures." The object of this alteration is to preclude any doubt as to whether the words of the sub-section as they stand cover the cases (1) in which shares are offered to debenture-holders, and debentures to shareholders; and (2) in which the offer includes the usual right of renunciation in favour of third parties.

71.—We think that all penalties imposed by the Companies Act, 1862 to 1900, and those suggested herein, should be recoverable by, and paid to, the Board of Trade.

72.—We think that in Sub-section (2) (c) of Section 12 of the Act of 1900, which relates to the statutory meeting, an amendment should be made. Instead of the words now in the Act "an abstract of the receipts and payments of the company on Capital Account to the date of the report," the following words should be inserted, "an abstract of the receipts of the company on account of its capital, whether from shares or debentures, and the payments made thereout made up to a date within seven days of the report, exhibiting, under distinctive headings of each total, the receipts of the company from shares and debentures and other sources, the payments thereout, and particulars concerning the balance remaining in hand." In this way further and more specific information would be given, which we think is in every way desirable.

73.—We recommend that further provision be made for enforcing the prompt delivery of certificates of title to shares. We consider that a shareholder, unless otherwise provided by the conditions of issue, should be entitled to a certificate of title to the shares allotted to him within one month after allotment at latest, and that the transferee of shares should be entitled to a certificate within one month after the transfer to him is registered, and there should be a penalty for default by the company in the absence of any

extension of the time by the Court. As things stand there is not infrequently great delay in the issue of certificates.

74.—We think that, subject to proper safeguards and restrictions, such as obtaining the sanction of the Board of Trade or of the Court, a company expending paid-up share capital in the construction of buildings or works of magnitude, which cannot be placed in a profit-earning condition for a lengthened period, should be empowered during construction to pay interest on such expenditure out of capital, and to treat such payment as part of the cost of construction. Cases commonly arise in which the inability of companies thus to pay interest out of capital during construction discourages and impedes the construction or carrying out of works of a desirable character, and Parliament, in its Standing Orders, and in the Indian Railways Companies Act, 1894, has recognised the propriety in some cases of providing for such payments. We recommend the extension of the principle.

75.—We consider that any objection to a mortgage to secure perpetual debentures or debenture stock should be removed. As the law stands, there is, to say the least, some doubt whether such mortgage does not act as a clog on the equity of redemption, and is therefore by the rules of equity invalidated, but we think that, in the case of a company, there is no reason to place this fetter on the competence of the parties.

76.—We think that, regard being had to the decisions in *W. Tasker & Sons, Lim.* (1905, 1 Ch. 283) and *George Routledge & Sons, Lim.* (1904, 2 Ch. 474), the law should be modified so that a company, which has paid off any debentures or debenture stock issued by it as security for temporary advances, should, unless forbidden by its articles or the terms of the issue of its debentures, be at liberty and be taken to have been at liberty (1) to keep the same on foot in the hands of its nominees, so far as necessary to enable them to give a good title to a subsequent transferee upon a sale or mortgage thereof by the company, or (2) to re-issue the same as of the same class.

77.—We think that the rule which precludes a mortgagee from stipulating, on the creation of his mortgage, for a right or option to purchase the mortgaged property or any part thereof, whether at a specified price or otherwise, should be relaxed where the mortgagor is an incorporated company. No doubt the rule was originally adopted to prevent oppression, but we think that as applied to a company with a board of directors it is entirely out of date. In a recent case in the House of Lords, *Samuel v. Jarrah & Co.* (1904, A.C. 325), where a company borrowed money on the security of some debenture stock, giving to the lender the option to purchase the stock within twelve months, it was held that the option was void. The then Lord Chancellor, and the other noble Lords who gave judgment, expressed their regret that the state of the

authorities left no alternative but to affirm the judgment of the Courts below.

78.—We think that the rule which precludes the Court from ordering specific performance of a contract to subscribe for debentures or debenture stock (see *The South African Territories, Lim. v. Wallington*, 1898, L.R. A.C. 309) should be abrogated as out of date. The rule, no doubt, is part only of a wider rule laid down many years ago by the Court of Chancery—namely, that the Court would not order specific performance of a contract to lend, but if a person agrees to take up shares in a company there is clear jurisdiction to order specific performance of the contract at the instance of the company, and there seems no sufficient reason why there should not be the like jurisdiction where a party agrees to take up debentures or debenture stock. Yet, as things stand, the company is compelled, if the other party to the contract refuses to take up or pay up the debentures or debenture stock, to sue him for damages—an unsatisfactory and insufficient remedy. If jurisdiction to order specific performance is granted, it would of course be subject to the usual rules, and accordingly it would be a good defence that there was misrepresentation by the company, or that on some other ground the company ought not to obtain judgment.

79.—We think that provision should be made making it obligatory on a debenture-holder or mortgagee, who obtains an order for the appointment of a receiver or manager, or appoints a receiver or manager, under powers contained in a deed, to give prompt notice of the order or appointment to the Registrar of Joint Stock Companies. There is now no such obligation, and we think that it is just and fair to outside creditors that there should be a record at the office of such Registrar of any such order.

80.—We think that receivers should be required, under a penalty, to file with the Registrar of Joint Stock Companies an abstract of their receipts and payments for each half-year during which the receivership continues.

81.—We think that it should be obligatory for notice of the appointment of every liquidator of a company in voluntary liquidation to be given to the Registrar of Joint Stock Companies within a short time of the appointment, together with the name and address of the liquidator.

82.—We think that the holders of preference shares and debentures and debenture stock, unless they have otherwise expressly agreed, should have the same right to receive and inspect the reports and Balance Sheets of a company as are possessed by the holders of ordinary shares.

83.—We consider that the Act of 1900 should be amended so as to give to any registered holder of debentures or debenture stock the right to inspect and require copies of the register of holders of debentures or debenture stock, and that he should have rights of inspection similar to

those given by Section 32 of the Companies Act, 1862, in relation to the register of members, and further that a company which has issued debentures or debenture stock should be bound on request to furnish to the holders a print or copy of the trust deed, if any, in the same manner as it is now obliged to furnish copies of the memorandum and articles of association.

84.—We think that the Preferential Payments in Bankruptcy Act, 1888, Section 1, Sub-sections (1) (b) and (c) should be amended so as to make the respective periods in those sub-sections, in the case of a company wound-up compulsorily, four months and two months respectively next before the order to wind up.

85.—We consider that it is desirable to modify Scots law so as to remove any question as to the validity of debentures to bearer, issued in Scotland; and as to mortgages of uncalled capital we understand that the doubts in regard thereto have caused grave inconvenience. (See the Report of the Law Society, App., p. 10.)

86.—It appears to us that Section 27 of the Companies Act, 1900, requires reconsideration. The effect of that enactment, whether intended or not, has been to practically preclude the formation of companies limited by guarantee with a capital or undertaking divided into shares. The main object of the section was to preclude the formation of guarantee companies in which the undertaking was to be treated as divided into a number of shares of no nominal amount, it being anticipated that the adoption of this form of incorporation would or might affect the Revenue. We think that the section should be repealed and that provision should be made for preventing any diminution of revenue. This can readily be done by enacting that, for the purposes of stamp on registration and on any subsequent special resolution for dividing the undertaking into shares, every share in the undertaking should, for the purposes of stamp duty, be treated as of the full nominal value of, say, £1, so that if a guarantee company was formed with 100,000 shares it would pay the same duty as a company limited by shares with a capital of £100,000. We think that there are many cases in which companies of this kind might be found of great utility. In substance they reproduce the leading characteristics of the Costbook Mining Company, which has for many generations prevailed in Cornwall.

87.—We think it desirable that Section 5 of the Directors' Liability Act, 1890, should be amended so that a director held liable for fraudulent misrepresentation shall not be entitled to contribution as against an innocent co-director.

88.—We also recommend—

(a) That the liquidator, or any person considering himself entitled to any rights, should be entitled to apply to the Court to stay a dissolution which had not actually taken place, and at any time within a period of nine months after dissolution, to have the dissolution set

aside, the Court having a discretion to accede to, or refuse, such application, or to limit the effect of the dissolution according to the justice of the case.

(b) That after dissolution any property, and rights in the nature of property, of the company not fully disposed of should vest in the Official Receiver, who should have power to transfer them to the person or persons equitably entitled.

En Commandite Partnerships.

89.—There seems some reason to think that the *en commandite* system of partnership, which prevails in France, Germany, and elsewhere, might with advantage be introduced into the United Kingdom. The salient features of that system in its simplest form are these. There is a managing partner, who manages the affairs of the partnership and is under unlimited liability to creditors, and there is a sleeping partner, who contributes, or agrees to contribute, capital of specified amount for the purposes of the partnership. His liability is limited to the amount of his capital and he is not allowed to take part in the management of the business. Particulars, including the name of the partnership, the names and addresses of the partners, and the capital to be contributed by the sleeping partners, are registered, so that the public may know the nature of the concern, and, as a further protection, the name, at any rate in Germany, is so framed as to indicate that the liability of some or one of the partners is limited. Sometimes there are several managing partners and several sleeping partners. Under the Partnership Act, 1890 (in continuation of Bovill's Act, 28 and 29 Vict. c. 86), the advance of money by way of loan to a person engaged in business, on the footing that the lender shall receive a rate of interest varying with the profits, or receive a share of the profits arising from carrying on the business, is not in itself to make the lender a partner with the person carrying on the business, and advances are frequently made on that footing. But experience shows that there are cases in which this limited provision cannot be utilised effectually, as, for example, where both parties desire that the advance should be made, not by way of making a loan, but by way of providing capital; for the Act does not extend to this. Again, the Companies Act, 1867, in Sections 4 to 8, made provision for the registration of companies somewhat on the principle of the *en commandite* partnership; that is to say, with a managing director or managing directors under unlimited liability, and the rest of the shareholders enjoying limited liability. But these provisions have not been regarded with much favour by the public—perhaps because registration as a company involved the carrying on of the business with at least seven members and an absence of the elasticity incident to the partnership relations. A Bill has on several occasions, and again this year, been brought before Parliament with

the object of legalising *en commandite* partnerships, and the Committee think that legislation in that direction is desirable, but as the matter involves a change in the law of partnership rather than in the law relating to joint-stock companies, they do not consider that such legislation would find its proper place in a Bill for the amendment of the Companies Acts.

90.—We cannot close our Report without expressing our indebtedness to our Secretary, Mr. H. A. Payne, for the very efficient help he has rendered to us throughout our inquiry. By his courtesy and skill he has materially assisted us in obtaining information and in the preparation of this Report.

We have the honour to be, Sir,

Your obedient humble servants,

C. M. WARMINGTON, *Chairman*,
J. W. BUDD,
FABER,
F. GORE-BROWNE,
J. K. J. HICHENS,
W. H. HOLLAND,
FRANCIS B. PALMER,
FELIX SCHUSTER,
EDGAR SPEYER,
EDWIN WATERHOUSE,
L. WORTHINGTON EVANS,
G. S. BARNES.

H. A. PAYNE, *Secretary*,
18th June 1906.

Minority Report upon the subject of Floating Charges.

We the undersigned are unable to concur in the recommendation of the majority of the Committee in regard to the creation of floating charges as set forth in paragraph 41 of the Committee's Report.

Under the existing law a company can, by a charge contained in debentures or other instruments, create a mortgage over the whole of its undertaking and assets, so that, in the event of default being made in the payment of the principal or interest, the debenture-holders can by means of a receiver, either appointed by themselves or by the Court in a debenture-holders' action, take possession of and sell for their own benefit the whole of the property of the company, collecting also the book debts, procuring the calling up and collection of the unpaid capital, and realising even goods which the company has obtained on credit and has not paid for; while, unless a balance remains after payment of the principal and interest secured by the debentures and the cost of enforcing the security, the unsecured creditors receive not even the

smallest dividend upon their claims. Even after a receiver has been appointed he can, and often does, continue to trade in the name of the company under a fiction of law that he is the company's agent.

The records of liquidation show that the occasions upon which unsecured creditors receive no dividend are very numerous, and the mischief is increased by the fact that until the debenture-holders elect to seize they allow the company to continue trading, it being to their advantage that goods should be obtained upon credit, as these go to swell the assets out of which the debenture-holders will receive payment. In the case of the *Crigglestone Company*, recently before the Courts, the directors of a colliery company, a majority of whom were also debenture-holders, on the 5th December 1905 ordered, and on the 20th of December took, delivery of a cable costing £700; on the 8th of January 1906 these same directors announced that the company could no longer continue business, and the debenture-holders seized the property, including the cable, for which they refused to pay, and when a petition was presented for winding-up the company it was opposed by the debenture-holders, on the ground (amongst others) that the assets were insufficient to pay the moneys secured by the debentures, so that nothing would remain for the trade creditors.

In another case which has been brought to our notice a manufacturer, who had failed in business and compounded with his creditors, induced two brothers-in-law to come to his assistance. A company was registered, in which the defaulting manufacturer was nominally the principal shareholder, although he made no payment on the shares allotted to him; he was also appointed sole managing director at a salary of £500 a year. The company obtained possession of the factory from the bank to which it was mortgaged, and business was reopened with moneys borrowed from the brothers-in-law of the managing director, who supplied several thousand pounds secured by debentures containing a floating charge. The business was carried on for four or five years, sufficient additional moneys being from time to time lent on debentures by the same persons, who by their own accountants were kept informed of the progress of the concern. Eventually, however, they put their debentures in force, when it appeared that goods to the value of £7,000 had been supplied to the company on credit, of which the debenture-holders got the benefit, either seizing the goods or collecting the book debts which represented the proceeds of their sale by the company, but the trade creditors received no dividend at all, the result of the transaction being that the managing director had been furnished for four and a-half years with a salary, his brothers-in-law, the debenture-holders, had received good interest on their money and repayment of their capital, while the trade

creditors had lost £7,000. Other cases of great hardship have also been brought to our notice, including the case of the *London Pressed Hinge Company*, referred to in paragraph 40 of the Committee's Report.

These instances show that the power to create floating charges may be greatly abused. But it is not mainly upon the ground of such special cases of sharp practice that we base our objection to floating charges. We recognise that such charges greatly facilitate the borrowing of money by limited companies, and we think that this creates a danger. A company has not the restraint which the fear of bankruptcy imposes on an individual trader who will not risk his reputation by reckless trading when so much disrepute attaches to insolvency. For a man to bring about his bankruptcy by reckless trading, or to continue to trade after knowing that he is insolvent, is treated as misconduct under the Bankruptcy Acts, and, on either of these grounds, or if he fails to pay ten shillings in the pound to his creditors, his discharge in bankruptcy will be suspended. There is no similar disability attaching to the directors of a company, and little or no personal discredit falls upon them if their company fails to pay a dividend to its trade creditors. It is, therefore, all the more important that the amount and manner of borrowing by a corporation should be upon a satisfactory basis.

The power to give a charge on all the assets of the company, present and future, enables a company to borrow to the full value of such property, and encourages the formation of businesses trading wholly or almost wholly with borrowed capital, a very common practice in the establishment of small concerns being to borrow all the capital required from a bank which obtains the guarantee of the directors, who, in turn, protect themselves by taking debentures with a floating charge from the company. As the loans carry interest whether the year's trading has been profitable or unprofitable, there is a greater danger of failure than in cases where capital is raised by the issue of shares, and in our opinion it is desirable to discourage the establishment of companies which have not a satisfactory amount of capital beyond that which they can borrow.

It is to be observed that in the case of an individual trader, he is unable to charge future chattels, and even in the event of his executing a bill of sale on existing chattels, the feeling of the community is such, in regard to borrowing in this manner, that little if any credit will be extended to him. It has been urged that inasmuch as debentures must now be registered, it is a merchant's own fault if he gives credit to a company which has issued debentures with a floating charge; but the answer to this is that the practice of creating such debentures has become so universal that their existence is not a danger signal, and to refuse credit to all companies which are subject to

these charges would deprive the manufacturer and merchant of a very large proportion of their customers.

We do not consider that a company should have any greater facility for borrowing than an individual, and we think that while a company should have unrestricted power to mortgage or charge its fixed assets, and should be allowed to contract that other fixed assets substituted for those charged should become subject to the charge, and the company should also be capable of charging existing chattels and book debts or other things in action, it ought to be rendered incapable of charging after-acquired chattels, or future book debts, or other property not in existence at the time of the creation of the charge.

We recognise that this would to some extent reduce the amount which a company will be able to borrow on the security of debentures, but we do not think that this is undesirable, being of opinion, as before indicated, that at the present time companies are tempted to exercise their borrowing powers to an unduly large extent, and we think further that, by the restriction on the capacity to borrow, companies will obtain a larger general credit by reason of trade creditors no longer having the fear that the whole of the assets will be swept away by the debenture-holders. Moreover, the manufacturer and merchant who supplies goods on credit is a very important member of the community, and his protection is a question well deserving the solicitude of Parliament.

The proposal we make would also put an end to a very grave scandal, to which attention has been called more than once—namely, that an insolvent trader should be able to sell his business to a company formed by himself upon the terms that it should pay the existing debts of the business, and issue to him, as further consideration, debentures charged on all the assets, so that when, by means of goods obtained by the company on credit, he has paid off his own debts he can re-seize the business under the powers contained in his debentures, and also would render impossible the very objectionable if not dishonest practice of debenture-holders standing by after they know their debtor company is insolvent, and stepping in to take possession when large quantities of work have been done or goods supplied by strangers who have not received payment.

F. GORE-BROWNE,
FABER,
W. H. HOLLAND.

18th June 1906.

(To be continued.)

Personal.

MESSRS. HART, MOSS & Co., Chartered Accountants, of 22 Moorgate Street, Rotherham, announce that they have taken into partnership the son of their Mr. Moss, Mr. ARTHUR HERBERT MOSS, A.C.A. The style of the firm will remain unchanged.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, July 13th, was 141, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 72; Deeds of Arrangement registered, 69. The respective numbers in the corresponding week of last year were: Bankruptcies, 86; Deeds of Arrangement, 71—total, 157; being a decrease of 16. The total number of commercial failures recorded during the 28 weeks of the present year is 4,611; the total number recorded in the corresponding 28 weeks of last year was 4,884, showing a decrease of 273.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, July 13th, was 162. The number in the corresponding week of last year was 171, showing a decrease of 9. The total number filed during the 28 weeks of the present year is 4,202; the total number filed in the corresponding 28 weeks of last year was 4,622, showing a decrease of 420.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, July 13th, amounted to £1,932,891, by way of addition to £2,008,351, previously issued by the same companies. The amount registered in the corresponding week of last year was £511,313, showing an increase of £1,421,578. The total amount registered during the 28 weeks of the present year was £45,926,583 (in addition to the issues in previous years by the same companies), as compared with £41,030,454 for the corresponding 28 weeks in 1905, showing an increase of £4,896,129.

The Profession in Scotland.

COURT OF SESSION.

Edinburgh—Outer House.

Before Lord Johnston.

July 12.

J. A. Tweedie v. John Ross & Co., Lim., and another.
Company Liquidation—Law Agent's Expenses—Liquidator Resists Claim for Payment on ground that Sufficient Funds had not been Realised.

In this action John Archibald Tweedie, solicitor, Edinburgh, sues John Ross & Company, Lim., brass-founders and sanitary engineers, Kirkcaldy, now in

liquidation, and Alan Drummond, accountant, Edinburgh, liquidator of the company, for payment of £55 10s. 3d.

Lord Johnston remitted to an accountant to examine the books and papers in the liquidation, and report upon the true state of the liquidator's intromissions. His Lordship said that the pursuer sued for two accounts for business done in the liquidation on the employment of the liquidator. The liquidator did not deny the employment or the performance of the business. On the other hand, the pursuer did not seek to hold the liquidator personally liable on the employment, but only in consequence of his having intromitted with the assets of the company in liquidation and of his having paid other accounts of a similar nature to the pursuer's in preference to him. The pursuer's accounts had on remit in the present process been taxed at the sum of £54 5s. 1d. The liquidator maintained that he had no funds, and could not pay until he had made further realisation. The pursuer maintained that whether the liquidator made further realisation or not, having given preferences so as to disappoint him in his just claims, the liquidator was bound to place him at least in the same position in which he would have been had a fair distribution of the funds which had come into the liquidator's hands been made. On taking up the case in succession to Lord Stormonth-Darling, the information given his Lordship on one side and the other led him to think it proper to require the liquidator at once to lodge accounts of his intromissions to the date of the summons, and to allow the pursuer to lodge objections thereto. The accounts lodged by the liquidator *prima facie* supported the pursuer's contention. On his own showing the liquidator had paid other accounts of a similar nature to the pursuer's, and, in particular, an account incurred to Messrs. Robertson & Wallace, S.S.C., for the large sum of £175 19s. 11d., without making any provision for payment of the pursuer's much smaller account of some £50 odd. And if his Lordship was to judge the liquidator's case on the apparent footing of his accounts lodged, he would give effect to the pursuer's minute and ordain the liquidator to make payment to him of the sum of £46 1s. 11d. necessary to give him the *pari passu* ranking for his account which he ought to have had on a fair distribution were the liquidator's accounts accepted as meaning what they represented. But consideration of the liquidator's accounts showed that it was impossible that he could have paid Messrs. Robertson & Wallace, for instance, out of proper realisations in the liquidation. If he had paid them at all it must have been, as he himself explained, by setting their claim in the liquidation against some private debt due by them to himself, leaving him a right to recover in the liquidation as if he were their assignee. But the necessity of such an explanation, and the doubt attaching to it, showed that the liquidator's dealings in the liquidation had been irregular, and that his accounts were unsatisfactory, and his Lordship was therefore not the least inclined to accept either his accounts or his explanations in disposing of the pursuer's claim. But his Lordship was the less disposed to accept the liquidator's accounts, and his assertion that he was really without funds to pay either Messrs. Robertson & Wallace or the pursuer by the consideration that the liquidator had been for a considerable time carrying on the business of the old company. His realisations had been largely expended, according to his own account, in wages, materials, and other expenses of carrying on a manufacturing business, and he alleged that he had incurred other accounts for the same purpose which were yet unpaid. Now, while he took credit on the discharge side of his account for these large outlays, which practically swamped his realisations, there was not the slightest hint on the charge side of his accounts of any returns from the business, whereas on the scheme of his accounting he should

have debited himself with the gross returns. In these circumstances, while his Lordship was much disposed to take the liquidator's accounts as he stated them, and accordingly give decree in favour of the pursuer, in terms of his minute, he thought it would be more just to both parties, and more to the advantage of the liquidation, if he made a remit to an accountant to examine the books and papers in the liquidation and report upon the true state of the liquidator's intromissions, that it might be ascertained, as it could not be from the liquidator's accounts, what was the measure of payment which ought to have been meted out to the pursuer had he been fairly dealt with.

(Scotsman.)

Bank Rate of Discount.

Sept. 28th 1905	..	..	..	..	..	4%
April 5th 1906	..	..	..	..	..	3½%
May 4th ..	..	..	..	..	..	4%
June 21st ..	..	..	..	..	..	3½%

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SATURDAY, JULY 28, 1906.

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Extract from *Auditing*, by LAWRENCE R. DICKSEE, F.C.A.
(Page 190)

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Leading Articles.

Company Losses Prior to Incorporation.

THE question raised by our correspondent "Anaca" in our issue of the 7th inst. deals with a point of considerable interest, but is far too involved to be adequately disposed of in the limited space available for a foot-note, and we accordingly promised to consider it fully at an early date.

A number of issues are raised by the facts cited, and it is desirable, so far as these are

merely side-issues, to dispose of them at once before approaching the main question. In the ordinary course of events, neither directors' fees nor managing director's salary could begin to accrue against a company until the appointments had been completed, which, in the nature of things, could not be until some date after the actual registration of the company. Under normal circumstances, therefore, a contract upon the part of a company to employ the vendors as directors or as managing directors, or as both, at an agreed salary, could only operate as from a date when it was possible for the company to make such appointments. Although we cannot speak positively upon the point, as we have not a copy of the contract in this case before us, we think it quite doubtful whether either managing directors' salaries or directors' fees are chargeable against the company's Profit and Loss Account save in respect of the period commencing when the appointment was actually completed, which under no circumstances could be earlier than the 11th February 1906, and ending the 31st March 1906.

It is quite possible, however, that an effective contract may have been entered into by the company under which the agreed purchase-price was loaded by a sum representing additional interest thereon at the rate of £1,100 per annum to be calculated as from the 31st March 1905, and the same contract may have provided that the amount payable under this clause was to be payable in equal halves to each of the two vendors. If that be so, the ultimate effect of such an arrangement is, of course, still that the company has to pay a further £1,100 in addition to the purchase-price, but the proportion thereof accrued prior

to the date when the company is entitled to commence business must be treated as purchase-money, and not as a charge against the profits earned by the company subsequently to its incorporation.

These same remarks apply *mutatis mutandis* to debenture interest and to interest on vendors' unpaid purchase-money. An agreement to pay interest on debentures as from a date prior to their actual issue is *pro tanto* an issue at a discount, and such discount is not chargeable against current revenue, although it is very desirable that it should be written off out of revenue as soon as possible. Certainly, however, it cannot in reason be charged against a period of somewhat less than seven weeks' duration. With regard to interest on unpaid purchase-money, it would almost appear as though the vendors were receiving interest twice over if they take interest on debentures and also on unpaid purchase-money; but, if the contract of sale clearly so provides, the arrangement would appear to be binding upon the company.

The position would thus appear to be that, assuming our surmise as to the effect of the contract actually entered into by the company is correct, the interest on debentures from 1st April 1905 to 10th February 1906 should be treated as discount on issue of debentures and written off out of future profits extending over, say, three years. Interest on vendors' unpaid purchase-money from the 1st April 1905 to 11th February 1906 should be carried to Purchase Suspense Account, and the interest from the 11th February to the 31st March 1906 charged against profits for that period. Managing directors' salaries and directors' fees should be dealt with in the same way as interest on unpaid purchase-money.

In compiling the Revenue Account it is necessary for the directors to determine what profit (or loss) was made prior to the 11th February 1906, and what was made in the ensuing period. If stock was not taken on the 11th February the directors must assume the responsibility of making the apportionment upon a reasonable basis, in some such manner as that explained in DICKSEE'S "Advanced Accounting." The balance of the Revenue Account for the period ending the 10th February 1906 may be transferred to Suspense Account, while against the Revenue Account for the following seven odd weeks must be charged interest on debentures, interest on unpaid purchase-money, managing directors' salaries, and directors' fees attributable to that period. If this last-named Revenue Account then shows a credit balance it will be legally available for distribution as representing profits for that period, although the expediency of paying a dividend under the circumstances named may well be questioned. If, on the other hand, the account shows a debit balance, it must be carried forward to the next year.

With regard to what we have called the Purchase Suspense Account, this will show a debit balance representing payments that have had to be made by the company under valid contracts entered into by it, in addition to the £20,000 stated by our correspondent. The account may be properly closed by transfer to the debit of Goodwill Account, and, indeed, should be so treated in the first instance, for in point of fact, if our surmise as to the facts is correct, the company must have paid in one way or another considerably more than £4,000 for the goodwill of the business acquired.

We now come to the second part of our correspondent's inquiry. The vendors, appar-

ently considering that they are being paid too much for the business which they sold to the company—and perhaps more than they expected to receive, there having possibly been some misapprehension as to the practical effect of the agreement actually entered into—are desirous of surrendering to the company two thousand fully-paid £1 shares. The question arises as to how such a surrender can in point of fact be carried into effect.

Primâ facie what is desired is a reduction of the company's capital; and it would no doubt be an easy matter to secure the approval of the Court to a scheme for reduction under such circumstances, in which event Share Capital Account might be debited and Goodwill Account credited with £2,000, and the whole matter regarded as brought to an end. Very possibly, however, the expense and perhaps even the publicity of a reduction of capital may be regarded as undesirable; but it is doubtful whether shares can be otherwise surrendered except as a short cut to forfeiture, and thus the expediency of attempting anything of the kind seems open to question. Certainly no such surrender should be carried through by a company without first obtaining proper legal advice. In giving judgment in *Trevor v. Whitworth*, Lord HERSCHELL said: "The authority of each case of surrender of shares must be decided upon its merits. Possibly a surrender to the company by way of donation may be free from objection, and there may be other causes." This *dictum*, so far as it goes, would justify such a surrender as that contemplated by our correspondent, but it hardly appears to be sufficiently definite to remove all doubt with regard to the matter.

If it be desired to carry through some arrangement with the vendors of the nature

outlined by our correspondent, and not to apply to the Court for sanction to a scheme for a reduction of capital, we would suggest that the vendors by deed assign to trustees nominated by the company two thousand fully paid shares of £1 each, to be held by such trustees for the benefit of the company. Were such an assignment made, there would, we think, be nothing improper in deducting £2,000 from the share capital of the company as shown on the face of the Balance Sheet, provided a note were appended stating that in addition to the above shares two thousand fully-paid shares were registered in the names of trustees for the company, to whom they had been surrendered by the vendors to enable the Goodwill Account to be written down to a corresponding extent, and *per contra* £2,000 might be credited to the Goodwill Account. The whole of the facts would then be stated upon the face of the Balance Sheet, which would accordingly not be open to objection; but whether this would not amount to a publicity almost equal to that necessitated by an application for a reduction of capital is, of course, another point that would have to be considered before any definite steps were taken as to the best course to pursue in view of all the circumstances.

An alternative plan would be to leave the subscribed capital at the gross figure, and to include £2,000 as an asset under the heading of Investments. Unless, however, the nature of the investments is very clearly stated, this method would be open to grave objection as being likely to mislead; and in any event we question whether it could be regarded as strictly accurate, in that the essence of the whole matter is that the shares surrendered are not and cannot be regarded as the property of

the company, in that it is *ultra vires* for a company to purchase its own shares, and presumably *ultra vires* for it to become the legal owner thereof. The item might be dealt with upon the assets' side by being described as "Interest of the company, under a trust created on the ——— day of ——— 1906, in a fund consisting of shares in the company valued at par", but it is at least open to question whether this plan possesses any advantages over that which we first mentioned, of deducting the £2,000 from the subscribed capital and appending a foot note explaining why such deduction had been made.

Secret Reserves.—III.

AS we indicated last week, we now propose to discuss in general terms, and quite irrespective of its effect upon any particular undertaking, the logical consequences of the decision of Mr. Justice BUCKLEY in *Newton v. The Birmingham Small Arms Company, Lim.* The decision in effect provides that so long as the statutory right of an auditor to inspect all the books, papers, documents, and vouchers of a company, and to report to the shareholders as to the result of his investigations, is not infringed, it is open to a company by its articles of association, as originally framed or as modified by special resolution, to absolve the directors from so framing the company's annual Balance Sheet as to truly and fully disclose the whole of the company's position, and to permit them to issue instead an emasculated, or edited, statement of that position, so long as this latter does not disclose a position of affairs more favourable than that which in point of fact obtains. That is to say, Mr. Justice BUCKLEY has apparently admitted the

legitimacy of the proposed Secret Reserve, Internal Reserve, or Secret Service Fund—by whichever name it may be known—and merely hints, by way of caution, that such Reserve must have a real existence, or, at all events, not be a minus quantity.

In order to properly discuss the whole of the possibilities that logically follow upon this admission, it is desirable that we should dissociate ourselves, and that our readers should dissociate themselves, entirely from any special features that may obtain in the case of the Birmingham Small Arms Company, Lim., or any other specific concern which they may have in mind. While it may be conceded in the fullest possible terms that under favourable circumstances this limitation of the liability of directors to account may be entirely in the interests of all parties concerned, the point to which we now wish to specially direct attention, and which it is important should be fully and frankly faced, is as to whether the principle laid down—that an accounting party need not account for the whole, provided a majority of those to whom he is accountable is content with an account as to part—is one which can be prudently accepted for general purposes, and regarded as a safe principle upon which to regulate the law relating to accounts and audit.

We do not propose to waste time by enumerating the somewhat obvious advantages of, upon occasions, keeping back some portion of the whole truth in the interests of the collective undertaking. The arguments in favour of this course have been frequently repeated, are somewhat obvious, and are doubtless quite familiar to our readers. Our object at the present time is to put forward the converse of this position, and to draw attention to the

abuses to which it may afford encouragement under unfavourable circumstances.

It is obvious that while in the case of most sound and profitable undertakings the management is entirely honest, the directors are above suspicion, have a sufficiently substantial stake in the undertaking to give security therefor, and are in the highest degree unlikely to allow their interests in other undertakings to dwarf their sense of responsibility with regard to the particular company immediately under review, it would be fatuous in the extreme to assume as a matter of course that all the directors of every company were equally impeccable. It is unfortunately the fact that many directors are not even so straightforward that they may be safely relied upon to do the square thing unless self-interest prompts such a course. In the majority of registered companies a director's qualification, and for that matter a director's holding, is not sufficiently substantial to of itself provide any very effective security for transcendental honesty; while the growing practice of plurality in directorships introduces conflicting interests, which are often in the highest degree difficult even to those whose honesty and level-headedness are absolutely beyond discussion. In many cases it is notorious that directors go upon the board of "A" company, not for the sake of securing advantages to that company or its shareholders, but with the sole object of pushing the advantages of the "B" company, in which they are more substantially interested. This state of affairs has gone so far that in many cases directors of companies have been frankly described as sitting upon the board of one company as "representing" the interests of another undertaking altogether—a position

which is absolutely untenable, and requires only to be specified to carry with it its own denunciation. That it is a very usual position, however, none who have much experience of company matters will care to deny.

Now bearing in mind, therefore, that it would be unreasonable, and even childish, to assume as a matter of course that the directors of every company are honestly and seriously striving single-heartedly for the advancement of that company alone, let us ask ourselves what may be the position, if these directors have the control of an *unknown* amount of money, concerning which they are under no obligation whatever to account to anyone, except in the event of their actions becoming so outrageous that the auditor considers it his duty to break the bounds of silence which have been impliedly (although not explicitly) imposed upon him, and divulge to the shareholders—which in practice but too often means to the whole world—what is being done with this Reserve which the shareholders collectively have expressly desired should remain a secret. Obviously, there would be the very greatest reluctance upon the part of any ordinary auditor to break silence in such a case until the last possible moment, and a very serious—and, as it seems to us, an unnecessary, and even undue—responsibility is thus thrown upon him, concerning which we shall have something special to say hereafter. At the moment we may point out that these secret funds may be employed corruptly in bribing parties who are in a position to advance the fortunes of the company by placing orders, by passing bad work, by circulating inaccurate statements, and the like. They will be equally available as the sinews of war to attack competitors, so that contracts be not given to them

even when their tender is lowest, or that when contracts are given to them an impossible standard of excellence is expected before the work will be passed, or for the circulation of injurious or libellous reports and rumours as to their position and standing. They will be available also to “level up” bad years, thus concealing losses occasioned by mismanagement, recklessness, or even fraud upon the part of directors or their subordinates; and they will be available further to enable the directors to finance each other, or the numerous other companies in which each or all of them may be interested; or they may even vote the money away as presents to each other for “additional services” alleged to have been rendered, without the shareholders being one whit the wiser.

We do not say that all, or even any, of these abuses are likely to arise in every case where a Secret Reserve is established (even if the admittedly first-class undertakings be excepted in the first instance, as we have excepted them throughout the whole of this article); but we do say that in every case the abrogation of the right to call for an account opens the door to almost every conceivable kind of laxity, incompetence, and fraud; and we have attempted to instance a few of the more obvious, and perhaps more likely, forms of abuse that might be expected to arise, were the institution of a Secret Reserve to become general among companies controlled by those whose personal honesty is not absolutely beyond suspicion.

Weekly Notes.

Bankers' Books and Income-Tax. Giving evidence before Sir C. Dilke's Select Committee of the House of Commons, Sir Felix Schuster expressed himself as strongly opposed to the suggestion that had been

made of forcing bankers to disclose their customers' accounts. The Chairman pointed out that what was desired was not so much information as to the amount of the income, but as to certain classes of income which were taxable but did not pay, and he instanced a case of regular remittances of the same amount received from abroad which would obviously be a return on foreign investments. The new knight was, however, very firm on the point, and replied that he did not believe such information could be obtained from a banker's books, and even if it could it would be very simple for the client to have the amount remitted direct to himself instead of to the bank and then pay in to the banker, thus rendering evasion easy.

Forged Share Certificates. Note should be carefully made of the judgment of the House of Lords in the *Fingall* forgery case. It will be remembered that plaintiffs sought to recover £20,000 in connection with some shares, the certificate of which was forged by a former secretary of the defendant company. The Lord Chancellor—Lords Macnaghten, Davey, James, Robertson, and Atkinson concurring—upheld the decision of the lower Court, and dismissed the appeal with costs. In the course of his judgment the Lord Chancellor said that although the secretary in question was admittedly a proper person to deliver certificates on behalf of the company, he had not made, nor was held out as having made, any representation or warranty that the certificate was genuine. He regarded the decision in the case of *Shaw v. Port Phillip Gold Mining Company* as one that might be upheld upon the supposition that the secretary there was, in fact, held out as having authority to warrant the genuineness of a certificate. Extreme care in these matters will now be the order of the day, and it will soon be necessary for the certificate to be supported by inspection of the Register of Members.

Corporation Bills. The example set by the Liverpool Corporation in coming to the Bank of England to discount its six months' bills has caused a correspondent of a financial contemporary to express a devout hope that the practice will not be followed by other municipalities. He points out that if this did happen, since the number of needy local authorities is very great, the credit system of the country would be strained to the uttermost, and it is not so much a question of the stability of the borrowers as of the

cumulative danger of these loans. In case of a financial panic, he states that Liverpool, or any other municipality, could only meet its engagements by renewing its bills, for there can be no liquid resources behind them. An "old and shrewd banker" is reported to have said, in this connection, that he never liked any money bill, and he liked these municipal bills least of all—they were not legitimate trading. The point seems to be one open to some discussion, and our readers are invited to express their opinions.

Thrift in 1905. According to the Parliamentary Return recently published, relating to the Post Office Savings Bank in 1905, it appears that £42,300,616 was deposited in the year, the withdrawals being £42,096,036. £204,580 does not speak very fluently of spare cash! The balance due to depositors at the end of the year, inclusive of £3,567,206 interest, was £152,111,139 as compared with £148,339,353 at the end of the previous year.

A Prosperous Company. The Tanjong Pagar Dock Company Lim., was formed to construct and manage wharves, docks, machine shops, and ship-building yards at Singapore and Penang, and was one of the largest and most influential concerns in the East, but had been so prudently conducted that its entire capital consisted of but thirty-seven thousand shares of one hundred dollars each. In December 1904 the Government of the Straits Settlements decided to acquire the whole of the undertaking, leaving the question of compensation to the company to be determined by arbitration. The matter was referred to Lord St. Aldwyn in October 1905, and his award has just been issued directing the Government to pay to the company an aggregate sum of 28,348,114 dollars. In addition, the Government has to pay compensation to the directorate, and the costs of the arbitration.

The Birmingham Small Arms Company, Lim. At a general meeting held on the 16th inst. the directors submitted for the approval of the shareholders amended articles of association which, it is understood, have been revised to meet the requirements laid down by Mr. Justice Buckley when granting an injunction against the company at the instance of Sir A. J. Newton, Bart. The press were not allowed to be present at this meeting.

and we have received no authentic copy of the resolutions submitted. We can, therefore, express no opinion as to how the directors propose to create a Secret Reserve concerning which the shareholders should have no means of information without infringing the injunction already granted. Upon this point, however, doubtless more will be heard in due course. It is understood that at the meeting the resolution was defeated by 36 votes to 27, but carried by a large majority at the poll which was subsequently held. There is, of course, still the confirmatory meeting to be held, and then, so far as can be judged, there will be a repetition of litigation. Upon that point, however, it is as yet too early to speak, for the opposition to the directors has gained considerable strength by the entrance upon the lists of Mr. Arthur Chamberlain.

**Fifty Years of
Joint-Stock
Enterprise.**

On the 17th inst. *The Financial News* issued a supplement under the above title which deals shortly with joint-stock legislation in this country, not merely during the past fifty years, but from the days of the South Sea Bubble onwards. This supplement contains an interesting and probably unique alphabetical list of all the more important prospectuses that have been issued in London since 1862, a list which causes one to regret that the compulsory filing of prospectuses was not earlier insisted upon. Even now, however, the curious inquirer can, we understand, obtain a type-written copy of any one of these documents upon payment of a fee of two guineas, which, while of course placing the acquisition of an exhaustive collection entirely out of reach, may be found of considerable convenience under exceptional circumstances.

Check Figures.

The letters which appeared in our columns on the subject of Check Figures will doubtless have been read with interest, but in the absence of a more detailed explanation it is, of course, impossible to form any opinion as to the practical merits of the system. So far as we can gather, it would appear to involve for all practical purposes the keeping of the books in duplicate, but the duplicate being in some form of shorthand occupies far less time and proves a more effective check than a mere repetition of the same figures would be. We quite appreciate that the originator of such a scheme is entitled to adequate recognition for his ingenuity, but we somewhat question whether anything in the nature of a secret process in accounting is ever likely

to be sufficiently generally used to be of advantage even to its originator. In the nature of things such a secret, which must be known to many, cannot be kept for long; while the idea of anything in the nature of an important discovery being so kept a secret is directly contrary to all professional practice. In the nature of things, therefore, it starts under a ban which must for the time at least retard its development, whatever the intrinsic merits of the system may be.

**The Robert
Fletcher Prize.**

It is very satisfactory to observe that the Robert Fletcher Prize has not had to go begging a second time. It is true that upon this occasion, as at the November examinations, the candidate first in order of merit exceeded the age limit, but Mr. H. B. Bigham, who was placed second, secured a sufficient number of marks to entitle him to the distinction. Mr. Bigham is articled to Mr. W. F. Bridgwater, F.C.A., of the firm of W. F. Bridgwater & Scurrah, of Birmingham.

**The Professional
Audit of Municipal
Accounts.**

Sir Melville Beechcroft has given notice of a motion at the London County Council that the Finance Committee should consider and report whether it would not be in the interests of the Council and the public that the accounts of the trading undertakings of the Council should be subjected to audit by professional accountants nominated by the Local Government Board. There can be no question as to the desirability of an effective system of professional audit as a means of reviving public confidence in these undertakings, but whether the Council will have the business acumen to view the matter in that light of course yet remains to be seen.

**Capital
Expenditure and
Discounts.**

In our Correspondence column last week "F. R. M." raises a question as to whether a limited company is entitled to treat discounts received in respect of Capital expenditure as Revenue earnings, or whether they must in all cases be treated as a deduction from such expenditure, and accordingly capitalised. From a strictly legal point of view there is little doubt that if the discounts in question are *bona fide* cash discounts they might be credited to Revenue, assuming, as is of course probable, that the company's memorandum and articles of association are sufficiently wide to enable ordinary credit discounts to be so treated. But, on the other hand, if the discounts be not *bona fide*

rebates for a prompt cash payment, but represent a deliberate loading of Capital expenditure, then doubtless they could not be justified as profits available for distribution in that the transactions would have no reality. As a matter of ordinary business prudence we think that, as a rule, cash discounts would under these circumstances be deducted from Capital expenditure; but in cases where the payment was made at a sufficiently early date to enable advantage to be taken of the cash discount by reason of money having been borrowed at interest, then no doubt it would be entirely proper, inasmuch as interest on borrowed moneys would be debited to Revenue, to credit Revenue with the saving effected by paying for the Capital expenditure before it was actually due.

Vacant Auditorship. In reply to "Auditor," whose letter under the above heading appeared in our last issue; if an auditor is appointed in the middle of a financial period owing to the death of his predecessor, it is certain that he cannot with complete safety accept the work done by his predecessor during the current period. But, apart from the fact that his legal responsibility will be for the whole year, there is the practical risk that under such circumstances a mistake may easily arise as to the exact point to which the previous checking extended. With regard to the question as to whether the representatives of the deceased auditor have any claim in respect of work commenced but not completed, so far as we are aware the point has not been expressly decided, but under normal circumstances the answer must be in the negative. This is confirmed by the equities of the situation, in that the new auditor will naturally require to be paid for the whole year, and it would not be fair to expect the company to pay twice over because the old auditor had died. If, however, there be an arrangement for a continuous audit, and that audit has been performed up to a point, the representatives of the deceased auditor would no doubt be entitled to a *quantum meruit*.

Municipal Trading. At the fourth annual meeting of the Industrial Freedom League, held at the Westminster Palace Hotel, Sir Felix Schuster presiding, Lord Avebury stated that the number of electric light undertakings worked by municipal authorities during the past twelve months was 191, their aggregate capital expenditure 27 millions, and the profit claimed to have been made £341,000, or, say, 1½ per

cent. He added, however, that the amount put to depreciation was only 1 per cent., whereas 2½ per cent. must be regarded as quite a minimum, which would suffice to turn the so-called profit into a heavy loss. Turning to tramways, his Lordship stated that 48 municipalities worked tramways. Of these only 13 made any contribution to the rates, 17 made no provision for depreciation, and only 11 provided upwards of 2 per cent. for that purpose. These figures are interesting so far as they go, and they suggest, of course, the ground for further inquiry, but, at the same time, it certainly cannot be said that they exhaust the subject.

Current Law.

COMPANY LAW.

Reubens and Ladenberg v. Great Fingall Consolidated, Lim.

H.L.

Held, confirming decision of Court of Appeal, that a limited company is not responsible to innocent third parties who have parted with money in exchange for forged share certificates of the company.—(*Times*, July 20.)

In re The Companies Acts, 1862 to 1900, and In re The Educational and Commercial Publishing Company, Lim.

Swinfen-Eady, J.

Held, that when an order has been made for the compulsory winding-up of a company which has been previously struck off the Register under Section 7 of the Companies Act, 1880, the name of the company may be restored to the Register to enable the winding-up to be continued.—(*Times*, July 23.)

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

Superannuated Government Officials and Competition.

(To the Editor of *The Accountant*.)

SIR,—I have read the paragraph in your issue of today's date referring to the late Official Receiver. In principle your conclusions may be correct, but in Mr. Sharpe's case they certainly do not apply. From my business knowledge of him, extending over the past seventeen years, I am sure he would not take an unfair advantage of any man. Under the circumstances of his retirement I consider he is quite justified in recor

mencing practice as an accountant, and the majority of Birmingham accountants will, I feel sure, agree with my views.

Yours faithfully,

ERNEST T. KERR.

Birmingham, July 21st 1906.

[We did not suggest, and had no intention of suggesting, that Mr. Sharpe would take an unfair advantage of any man.—*Ed. Acct.*]

Capital Expenditure and Apportionment.

(To the Editor of The Accountant.)

SIR,—Your answer to the first part of "F. R. M.'s" inquiry in last week's issue is somewhat difficult to follow. My opinion on the point would be:—

- (1) If the discount can clearly be classed as a "cash," as distinct from a "trade," discount; and
- (2) If the outlay is one other than the initial outlay on formation;

the Profit and Loss may rightly, as well as legally, be credited. There will have been a translation, and the asset or liability affected (say the bank overdraft) will result in the Profit and Loss being adversely affected. However this may be, I think the custom in some parts of the country with regard to initial outlay is to lump all the preliminary expenditure and income up to the commencement of actual trading and to apportion this to the cost of the various assets. I have often thought some of your correspondents' views on the practice followed in this respect would be very useful and interesting.

With regard to the second part, would it not be correct to say that the income from property would be taken to mean *net* rentals, &c., and as insurance is a very proper and necessary expenditure, it would enter into apportionment? Whatever the strict meaning of the law, I think an accountant would be justified in apportioning both insurances, rates, taxes, &c., paid in advance.

Yours truly,

Bolton, July 21st 1906.

M. N. PROCTOR.

[*Vide Weekly Note on page 100.* We cannot advise accountants that they are justified in ignoring the law; in doubtful cases they should take proper legal advice, and act upon it.—*Ed. Acct.*]

What is a Check Figure?

(To the Editor of The Accountant.)

SIR,—As the inventor of many English Check-Figure Systems based on many numbers, I think I may say that I am in a position to state facts regarding Check-Figure Systems in general.

A Check-Figure System is a very tricky thing to handle, there are many weaknesses which time alone can reveal. If, however, a Check-Figure System has stood the test of over two years by large English firms, it is evident that that system is good enough for most firms, and the one to be recorded as the "survival of the fittest."

I do not know to which Check-Figure System "H. T. L." refers, however. Outside of check-figure aids, ordinarily a proof of additions cannot be secured on two additions if both additions disagree, unless there is something to compare with. Consequently, a third addition is necessary to verify which addition is correct, no matter how accurate an accountant may be. The check-figure decides this also. The check-figure having already been placed in the Ledger at the time of posting, enables the accountant to prove the additions therein at once, without looking for trouble.

The only system of this kind adaptable for an accountant is that which entails a minimum of effort, thereby reducing the risk of creating coincidences arising from incorrect check-figures. The simplicity of its working cannot be realised by a superficial review, practice alone and the test of time will vouch for its merits; and seemingly "H. T. L." has not had the advantage of this, judging from the manner in which he states the check-figure is applied. He is wrong in asserting that the "code figure is entered in the Day Book, &c., and placed in the Ledger lastly." The Ledger should be the birthplace of all code figures, and transferred from thence into the Day Book, &c. If applied in the manner he states there could possibly be no proof of posting until such time the Ledger Account is added, by which time possibly the debtor will have skipped the country or sold out. If "H. T. L." will do me the favour of arranging an interview I will be pleased to discuss the subject with him and put him in possession of a system by which he can secure the check of large amounts as quick as the amount is written, gratuitously. I have many accountants who, in checking back firms' books, use the system and save considerable time and labour.

Yours faithfully,

F. A. FRINGS, F.S.S.

London, July 21st 1906.

Deed of Assignment and Execution Creditors.

(To the Editor of The Accountant.)

SIR,—Although my views hereon as expressed in yours of 21st inst. do not quite agree with those

expressed by your Legal Contributor, and are quite opposed to the opinions of Mr. David P. Davies, I see no reason for qualifying my first letter.

Your Legal Contributor states that an offer made by deed is irrevocable, and that even if not communicated to the offeree it remains open for his acceptance on his becoming aware of its existence.

No one will seriously contest this as a general principle of law, using the word "deed" as meaning "a contract under seal."

But this principle does not apply to deeds of assignment. There may be a continuing right of acceptance in the offerees, but until at least one creditor has assented (verbally or in writing), or having notice of the deed has not dissented, there is no trust; the assignment remains a mere proposal as to an arrangement, the terms of which are capable of alteration or of entire revocation. Moreover, while a "deed" of assignment is usually under seal, this is not absolutely necessary. The Deed of Arrangement Act itself defines a deed of arrangement as including "any of the following documents, *whether under seal or not*," &c. &c.

With regard to the letter of Mr. David P. Davies, I note that he quotes the same case (*Harland v. Binks*) as myself, therefore our different opinions may be attributable either to Mr. Davies's want of the full report of the case, or to differences of opinion as to the effect of the judgment. The other case he quotes does not bear on the point.

Privileged as I am to know Mr. Davies's position geographically, possibly my readier access to the report of the legal issue, which was first raised at the York Assizes in 1849, may be the subject of his present envy, but *Harland v. Binks* does not support his view that an assignment is good to defeat an execution creditor, even though no creditor has assented thereto, and though the existence of the deed has not been communicated to any creditor.

Suppose no single creditor will assent to the deed, that every single creditor has in fact dissented in writing thereto. Is that a deed of assignment for the benefit of creditors? Would it not rather be a conveyance of goods "to the end purpose and with intent 'to delay and hinder . . . creditors of their 'just and lawful actions debts, &c,'" and as such be utterly void by virtue of the provisions of 13 Eliz. cap. 5, the words of which statute I have quoted?

Lord Mansfield stated that these provisions could not receive too liberal a construction. When Mr.

David P. Davies states that "the assent of a creditor "to a deed only affects the right of the debtor to "revoke the assignment," he is wrong to the extent of the word "only," for apart from such effect there is a further result. Nor is he correct in suggesting that after an assignment of all the property of a debtor, the debtor *ipso facto* removes all his goods from the range of a judgment creditor. A creditor's assent is not required merely to make a contract by an acceptance of the "irrevocable offer" referred to by your Legal Contributor; it is required in order to create a trust out of what was previously a proposed arrangement.

In delivering judgment in *Harland v. Binks* (1850) Lord Chief Justice Campbell said:—

"The question is whether the relation of trustee and *cestui que trust* has been established in this case, for, if not, I think the deed must have been considered voluntary and void as against the defendant (the execution creditor). . . . Then has that relation been established in this case? Morley *bonâ fide* assigns all his property to Harland for the benefit of all his creditors who should come in. . . . Morley's attorney states to three of the creditors all that has taken place . . . and each of such creditors distinctly says that he is perfectly satisfied. . . . Now does not that statement amount to saying that they would come in under the deed . . .? I think it does. . . . That, I think, was sufficient to establish the relation of trustee and *cestui que trust* between the plaintiff (trustee) and the creditors."

Patteson, J., also based his judgment upon the question as to whether a trust had been created between the parties as a result of assent of the creditors, or at least one of them.

Wightman, J., not only concurred in the views of the other Judges, but dealt with the decision in an earlier case (*Garrard v. Lauderdale*, 3 Sim. 1), where the execution creditor succeeded. He said: "That case, however, is very different in its circumstances; not "one creditor was there shown to have assented to "the deed in any way. Here there has been complete "verbal assent. . . ."

Thus the judgments in the case quoted by Mr. David P. Davies not only support the view that if there is assent of one creditor (verbally or in writing) to a deed of assignment it will protect the goods so assigned from execution, but they also expressly approved of an earlier decision where the deed was held void under 13 Eliz., cap. 5, simply because no creditor was there shown to have been privy to the deed before execution was levied.

The point was again considered, and the principles of *Harland v. Binks* were adopted in 1887 in *Adnitt v. Hands* (57 L.T. 370). In this case Lord Esher, M.R., said:—

"I am satisfied as to what is the law relating to the present case. When a claimant sets up a deed, such as this, against an execution creditor, a deed which assumes to pass the whole of a person's property to trustees for the benefit of his creditors generally, although he proves that the deed was *bonâ fide*, he has not, by that alone, done all that he was bound to do. If that is all he does, he only shows that there is a *bonâ fide* intention to distribute his property amongst his creditors, which would be merely an arrangement between him and the trustees, and revocable, and therefore not good as against an execution creditor. He must go a step further, and show that it is irrevocable; and he can show this by showing that the deed has been communicated to one of the creditors and not dissented from by him, which would raise the relation of trustee and *cestui que trust*."

Lopes, L.J., said:—

"The question is whether it (the deed) is revocable or not. The law, I take it, is that a deed of this kind is irrevocable if communicated to the creditors and not dissented from. . . . It was for the plaintiff (the trustee under the deed) to show that the deed was good as against an execution creditor, which he can do by showing that it is irrevocable."

I submit that there can be no doubt about the authority for my views as expressed a week ago.

Yours faithfully,

SIDNEY S. DAWSON.

Liverpool, 24th July 1906.

The Institute of Chartered Accountants in England and Wales.

THE following persons have been admitted to membership of the Institute as Associates in practice:—

Law, Albert, Midland Chambers, The Bridge, Walsall.

Williams, Herbert Leigh (Oakley & Williams), 118 Queen Victoria Street, E.C.

Meetings for the ensuing Week.

Monday—INSTITUTE OF CHARTERED ACCOUNTANTS.—Parliamentary and Law Committee, at 2 p.m.

Wednesday—INSTITUTE OF CHARTERED ACCOUNTANTS.—Finance Committee, at 12.30 p.m.; Council meeting, 2 p.m.

The Leeds and District Chartered Accountants Students' Association.

THE sixteenth ordinary general meeting was held on the 19th day of July 1906, at the Law Institution, Albion Place, Leeds, Mr. H. Gaskell Blackburn, F.C.A., in the chair.

The following are the

REPORT AND ACCOUNTS.

Your Committee have pleasure in submitting the report for the year ended 31st March 1906 and Statement of Accounts.

During the past year 12 members have been elected and 6 members have resigned, the present membership being 55, consisting of 25 honorary members and 30 ordinary members.

The following lectures have been given during the session:—

1905

Oct. 27.—Lecture, "Contracts—Offer and Acceptance."

Mr. R. A. Chadwick, M.A., LL.M.

Nov. 17.—Lecture, "Form of Contract—Consideration."

Mr. R. A. Chadwick, M.A., LL.M.

Dec. 1.—Lecture, "Bankruptcy." Mr. R. A. Chadwick, M.A., LL.M.

" 14.—Lecture, "Report of Special Committee on Income Tax." Mr. A. F. Dodd, F.C.A.

" 28.—Lecture, "Formation of a Company." Mr. R. A. Chadwick, M.A., LL.M.

1906

Jan. 11.—Lecture, "Rights and Duties of the Officers of a Company." Mr. R. A. Chadwick, M.A., LL.M.

" 18.—Lecture, "The Administration of the Estates of Deceased Insolvents." Dr. D. F. de l'Hoste Ranking.

Feb. 2.—Lecture, "Rights and Duties of Liquidators." Mr. R. A. Chadwick, M.A., LL.M.

" 22.—Lecture, "Requisites of a Contract." Mr. W. E. Farr, Solicitor.

March 2.—Lecture, "Rights and Duties of Trustees." Mr. R. A. Chadwick, M.A., LL.M.

" 16.—Lecture, "Rights and Duties of Receivers." Mr. R. A. Chadwick, M.A., LL.M.

Mr. Chadwick offered a prize for the best answers to a paper of questions on his lectures. The prize was awarded to Mr. E. W. Broadbent, whom the Committee congratulate on his success.

The average attendance at these meetings has been 8·7.

The Committee, on behalf of the Association, beg to thank the President and other gentlemen who have delivered lectures or presided over the meetings of the Association during the year.

Eleven Committee meetings have been held, and the attendances of the members of the Committee have been as follows:—

Mr. C. E. Clarke, A.C.A., 3 out of a possible 5. Resigned December 1905.

Mr. H. W. Godby, 4 out of a possible 5. Elected January 8th 1906.

Mr. J. C. Jackson, A.C.A., 10 out of a possible 11.

Mr. W. H. Loxley, A.C.A., 4 out of a possible 5. Resigned December 1905.

Mr. H. G. Payton, 10 out of a possible 11.

Mr. H. Taylor, A.C.A., 8 out of a possible 11.

Mr. Harry Teale, 2 out of a possible 5. Elected January 8th 1906.

Mr. H. S. Wainwright, A.C.A., 8 out of a possible 11.

During the year a large number of new volumes have been added to the Library at a cost of over £40. These additions necessitated the purchase of a larger book-case and the renumbering of the whole of the books, and the publication of the new library catalogue, which accompanies this Report. The Library now consists of over 600 volumes.

The Committee have had under consideration the question of becoming affiliated with the Working Union of Chartered Accountant Student Societies. Mr. A. F. Dodd, F.C.A., of Liverpool, who is interested in our Society joining the Union, explained the advantages of this course to a meeting

of ordinary members held on the 14th of December last. For the benefit of those members who were not present, we give below some of the advantages which it is thought we shall secure:—

- (1) The obtaining of financial assistance from the Institute. One of the conditions of the Institute is that the Society obtaining aid shall belong to the Union.
- (2) Of having a list of gentlemen in the profession who are willing to deliver lectures on accountancy subjects.
- (3) The publishing of Joint Transactions.
- (4) The facilities granted to visitors from other Societies in the Union.
- (5) The giving of Prize Essays, open to all Societies belonging to the Union.

If the members resolve to become affiliated with the Working Union of Chartered Accountant Student Societies, our Association will be entitled to elect one representative on the Committee of Management of the Union, and will have to contribute sixpence per member per annum to the funds of the Union.

H. GASKELL BLACKBURN,
President.

H. G. PAYTON,
Hon. Secretary.

6th July 1906.

Dr. INCOME AND EXPENDITURE ACCOUNT for the Year ended 31st December 1905. *Cr.*

<i>Expenditure.</i>							
	£	s	d	£	s	d	
To Printing and Stationery	2	19	7				
Postages	1	8	0				
Librarian's Salary	4	4	0				
Lecturer's Fees	3	3	0				
Sundries	1	0	0				
				12	14	7	
Depreciation		17	6	5			
Reserve for Outstanding Subscriptions		10	0	0			
Balance being Excess of Income over Expenditure		2	12	0			
	£42	13	0				

<i>Income.</i>							
	£	s	d				
By Subscriptions:—							
22 Honorary Members at £1 1s.	23	2	0				
30 Ordinary Members at 10s. 6d.	15	15	0				
11 Entrance Fees at 5s.	2	15	0				
Donation by Mr. H. J. Day	1	1	0				
	£42	13	0				

Dr. BALANCE SHEET, 31st December 1905. *Cr.*

<i>Liabilities.</i>							
	£	s	d				
To Sundry Creditors	50	9	0				
Subscriptions paid in Advance	0	10	6				
Surplus Account:—							
Balance at 1st January 1905	76	0	5				
Add Excess of Income over Expenditure for the year ended 31st December 1905	2	12	0				
	78	12	5				
	£129	11	11				

<i>Assets.</i>							
	£	s	d	£	s	d	
By Library:—							
Books as at 1st January 1905	16	8	8				
Additions during the year	42	17	0				
	59	5	8				
Less Depreciation at 25%	14	16	5				
	44	9	3				
" Furniture:—							
As at 1st January 1905	1	17	0				
Additions during the year	8	3	0				
	10	0	0				
Less Depreciation at 25%	2	10	0				
	7	10	0				
" Cash at Bank	20	3	6				
Outstanding Subscriptions	10	0	0				
Less Reserve	10	3	6				
	£129	11	11				

I have examined the above Accounts with the Books and Vouchers of the Association, and find the same correct.

J. C. JACKSON, A.C.A., *Hon. Treasurer.*
4th July 1906.

JNO. W. BURRELL, A.C.A., *Hon. Auditor.*

- 1.—The notice convening the meeting was read.
 - 2.—The Committee's report and statement of accounts were taken as read.
 - 3.—Resolved, that the report of the Committee for the year ended the 31st March 1906, and the statement of the Association's accounts at the 31st December 1905, duly audited, be received, approved, and adopted.
 - 4.—Resolved, that Mr. John Gordon, F.C.A., be elected President, and Messrs. H. Gaskell Blackburn, F.C.A., W. S. Blackburn, F.C.A., J. W. Close, F.C.A., R. T. Heselton, F.C.A., G. P. Norton, F.C.A., and J. C. Kirk, F.C.A., be elected Vice-Presidents.
 - 5.—Resolved, that Messrs. H. H. Nixon, A.C.A., P. Mc.C. Wilson, B.A., A.C.A., E. W. Broadbent, and H. N. Atkinson, be elected members of the Committee.
 - 6.—That Mr. H. W. Godby be elected Honorary Treasurer.
 - 7.—That Mr. J. W. Burrell, A.C.A., be re-elected Honorary Auditor.
 - 8.—That Mr. H. Taylor, A.C.A., be re-elected Honorary Librarian.
 - 9.—That Mr. H. G. Payton, A.C.A., be re-elected Honorary Secretary.
 - 10.—That the Association make application for admission to the Union of Chartered Accountant Student Societies, and agrees to accept the rules of the Union of Chartered Accountant Student Societies, and such additions or modifications thereof as may be made from time to time under Rule 17 of such rules.
 - 11.—Resolved, that Mr. W. E. Harding be nominated as the representative of the Association on the Management Committee of the Working Union of Chartered Accountant Student Societies.
- The meeting closed with a vote of thanks to the President and the other officers of the Association.

Company Law Amendment Committee.

Report of Committee.

(Continued from page 91.)

Note by Mr. Edgar Speyer.

Liability of Directors.

With regard to clause 24 of the revised Report, while I do not dissent from the view that directors should be protected in the matter of prospectuses and statements of material facts therein, the clause may create the impression that all that is necessary to amend the existing conditions is to protect directors against mistakes honestly committed.

Now I hold very strongly that while directors in these instances should be protected in the manner suggested by us, their liability for negligence generally with regard to the conduct of business of a company should be increased, otherwise the public may conclude that our Committee is satisfied with the manner directors generally perform their duties. This conclusion I, for one, am anxious to avoid.

Having had twenty years' experience of business life in the City of London, during which I have had every opportunity of watching the development of joint-stock enterprise in this country, I am more than ever impressed with the following defects and abuses:—

- (a) The growth of pluralist or "guinea-pig" directors, particularly among men in public life.
- (b) The fact that such ornamental directors are sought after obviously in many cases as decoys on the front page of a prospectus.
- (c) The enormous increase in the number of companies that have gone into liquidation and consequent losses to the shareholders and creditors.
- (d) Cases of company frauds.
- (e) The impossibility of making directors personally liable for negligence in the discharge of their duties as directors.

The Act of 1900 has not altered or affected the law in this last respect, although the matter was before Lord Davey's Committee in 1894 (see Blue Book C 7779, appendix pp. 19, 20, evidence of Dr. Ernest J. Schuster, of Lincoln's Inn), and the abuses above indicated have continued to increase since that Act came into force. As I understand the law, directors cannot be made liable for negligence, as understood by ordinary business men, having regard to the facts of each particular case. To make them liable, "their negligence must be not the omission to take all possible care; it must be more blameworthy than that; it must be in a business sense culpable "or gross." These words are quoted from the judgment of Lord Lindley in the *Lagunas* case (1889, 2 Ch., at p. 435). Writing as a layman, and therefore with diffidence, I am unable to find that this judgment of Lord Lindley has ever been disapproved (*Cory's* case, 1901, Appeal Cases 491). I am convinced that until the law is altered in this respect and directors are made personally liable for negligence the other abuses, flagrant as they are, which I have mentioned above will continue to exist unchecked.

But it may be urged, what reason can be adduced that an alteration in the law in this respect will put an end to these other abuses? It is to the law and experience of other countries, in which joint-stock enterprises flourish, and in which these abuses are rare, that I would direct attention. For instance, according to German law (see Section 241 of the German Commercial Code) directors are obliged to give to the duties of their office the diligence and

care of an ordinary trader ("die sorgfalt eines ordentlichen Geschäftsmannes"); if a director fails in this respect—and the burden is on him to prove diligence—he is personally liable for losses incurred. This was most clearly stated by Dr. Ernest J. Schuster before Lord Davey's Committee in 1894 (beginning at page 19 of the Blue Book above referred to). Dr. Schuster there says:—

"It may be worth while to point out the contrast between these rules and those of the English law. German law requires the diligence of a prudent trader and presumes negligence in case of loss. English law recognises a shadowy liability for 'negligentia' and presumes diligence. German law makes a director liable for non-attendance to his duties; according to the English law a director who never attends any board meetings cannot come under any liability." It seems to me that the immunity of directors from liability for negligence lies at the seat of the deplorable abuses in company matters in this country.

The suggestion that men will not so easily accept directorships under such conditions is, it is submitted, no answer. It is not directors who need protection, but the public. There is small moral sanction for the position of a man who has ten or more directorships, whose companies go into liquidation through mismanagement, and who, apart from what he may have paid for his qualification shares, loses nothing, not even his market value as a director, for he is free to reap an income by joining other boards. A trader who is negligent in the management of his business and ends in bankruptcy has to bear the stigma and the disabilities of the *status* of a bankrupt. I submit that a director ought not to and need not be in any better position than an ordinary trader.

As the number of directorships which a director could accept must necessarily be diminished should the above suggestions of mine be accepted, the remuneration of a director ought then in my opinion to be increased.

It would not, in my opinion, be sufficient to introduce a change in the law by amending Article 55 of Table A; the liability of directors for negligence should be so enacted as to be of general and compulsory application.

EDGAR SPEYER.

June 18th 1906.

Note by Mr. Worthington Evans.

I dissent from the conclusion of the majority of the Committee that there is no reason to alter the present law requiring seven persons to constitute a limited company; the facts set out in paragraph 48 of the Report seem to me to afford strong reasons for abolishing the requirement.

A company formed by two or three persons seems to me less objectionable in principle than a company formed by the same persons with the aid of a few dummies.

If two persons wish to form a limited company under the present law it is explained to them that they can hold all the capital entitling them to the profits and retain the control of the company, but that in order to comply with the law the services of five dummies must be engaged, who may be given five non-participating shares, and thus at the outset those forming the company are taught that they can get round the requirements of the law; they acquire a contempt for it which is apt to lead to more serious breaches of its other provisions.

It is better, therefore, in my opinion, to legalise the formation of a company by two or more persons.

If this alteration in the law is made there will be no necessity to encumber our company system with any special legislation adopting the *en commandite* system of partnership, for, as is pointed out in paragraph 89 of the Report, provisions already exist in our company law which could immediately be made applicable.

Professional men are at present deprived of the benefits of the limited liability system, but, if the law were altered as I suggest, a ready means would be afforded of partnership with limited liability.

L. WORTHINGTON EVANS.

18th June 1906.

Schedule to Report.

TABLE A. [REVISED.]

Preliminary.

1.—In these regulations, unless the context otherwise requires, expressions defined in the Companies Acts, 1862 to 1900, or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have the meanings so defined; and words importing the singular number only shall include the plural number, and *vice versa*, and words importing the masculine gender shall include the feminine, and words importing persons shall include corporations.

Business.

2.—The directors shall have regard to the restrictions on the commencement of business imposed by Section 6 of the Companies Act, 1900, if, and so far as, such restrictions shall be binding upon the company.

Shares.

3.—Subject to the provisions, if any, in that behalf of the memorandum of association of the company, and without prejudice to any special rights previously conferred on the holders of existing shares in the company, any share in the company may be issued with such preferred, deferred, or other special rights, or such restrictions, whether in regard to dividend, voting, return of capital, or otherwise, as the company may from time to time by special resolution determine.

4.—If at any time the capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings shall *mutatis mutandis* apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class.

5.—No share shall be offered to the public for subscription except upon the terms that the amount payable on application shall be at least 5 per cent. of the nominal amount of the share; and the directors shall, as regards any allotment of shares, duly comply with such of the provisions of the Companies Act, 1900, Sections 4 and 7, as may be applicable thereto.

6.—Every person whose name is entered as a member in the Register of Members shall, without payment, be entitled to a certificate under the common seal of the company specifying the share or shares held by him and the amount paid up thereon, provided that in respect of a share or shares held jointly by several persons the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all.

7.—If a share certificate is defaced, lost, or destroyed, it may be renewed on payment of such fee, if any, not exceeding one shilling, and on such terms, if any, as to evidence and indemnity as the directors think fit.

8.—No part of the funds of the company shall be employed in the purchase of, or in loans upon the security of, the company's shares.

Lien.

9.—The company shall have a lien on every share (not being a fully-paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of such share, and the company shall also have a lien on all shares (other than fully-paid shares) standing registered in the name of a single person, for all moneys presently payable by him or his estate to the company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause. The company's lien, if any, on a share shall extend to all dividends payable thereon.

10.—The company may sell, in such manner as the directors think fit, any shares on which the company has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen days after a notice in

writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled by reason of his death or bankruptcy to the share.

11.—The proceeds of the sale shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale. The purchaser shall be registered as the holder of the shares, and he shall not be bound to see to the application of the purchase-money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

Calls on Shares.

12.—The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares, provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than one month from the last call; and each member shall (subject to receiving at least fourteen days' notice specifying the time or times of payment) pay to the company at the time or times so specified the amount called on his shares.

13.—The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

14.—If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of $\frac{1}{2}$ per cent. per annum from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of such interest wholly or in part.

15.—The provisions of these regulations as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.

16.—The directors may make arrangements on the issue of shares for a difference between the holders in the amount of calls to be paid and in the times of payment.

17.—The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him; and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding, without the sanction of the company in general meeting, 6 per cent.) as may be agreed upon between the member paying the sum in advance and the directors.

Transfer and Transmission of Shares.

18.—The instrument of transfer of any share in the company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the Register of Members in respect thereof.

19.—Shares in the company shall be transferred in the following form, or in any usual or common form which the directors shall approve:—

I, A. B., of _____, in consideration of the sum of £ _____ paid to me by C. D., of _____ (hereinafter called "the said transferee"), do hereby transfer to the said transferee the share [or shares] numbered _____ in the undertaking called the _____ Company, Lim., to hold unto the said transferee, his executors, administrators, and assigns, subject to the several conditions on which I held the same at the time of the execution hereof: and I, the said transferee, do hereby agree to take the said share [or shares] subject to the conditions aforesaid. As witness our hands the _____ day of _____.

Witness to the signatures of, &c.

20.—The directors may decline to register any transfer of shares, not being fully-paid shares, to a person of whom they do not approve, and may also decline to register any transfer of shares on which the company has a lien. The directors may also suspend the registration of transfers during the fourteen days immediately preceding the ordinary general meeting in each year. The directors may decline to recognise any instrument of transfer unless (a) a fee not exceeding two shillings and sixpence is paid to the company in respect thereof, and (b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

21.—The executors or administrators of a deceased sole holder of a share shall be the only persons recognised by the company as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor, or the executors or administrators of the deceased survivor, shall be the only persons recognised by the company as having any title to the share.

22.—Any person becoming entitled to a share in consequence of the death or bankruptcy of a member shall, upon such evidence being produced as may from time to time be required by the directors, have the right, either to be registered as a member in respect of the share, or, instead of being registered himself, to make such transfer of the share as the deceased or bankrupt person could have made; but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or bankrupt person before the death or bankruptcy.

23.—A person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

Forfeiture of Shares.

24.—If a member fails to pay any call or instalment of a call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

25.—The notice shall name a further day (not earlier than the expiration of fourteen days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.

26.—If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

27.—A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

28.—A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the company all moneys which, at the date of forfeiture, were presently payable by him to the company in respect of the shares, but his liability shall cease if and when the company shall have received payment in full of the nominal amount of the shares.

29.—A statutory declaration in writing that the declarant is a director of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share, and such declaration, and the receipt of the company for the consideration, if any, given for the share on the sale or disposition thereof, shall constitute a good title to such share, and the person to whom the share is sold or disposed of shall be registered as the holder of the share and shall not be bound to see to the application of the purchase-money, if any, nor shall his

title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale, or disposal of the share.

30.—The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Conversion of Shares into Stock.

31.—The directors may, with the sanction of the company previously given in general meeting, convert any paid-up shares into stock, and may with the like sanction reconvert any stock into paid-up shares of any denomination.

32.—The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations as, and subject to which, the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; but the directors may from time to time fix the minimum amount of stock transferable, and restrict or forbid the transfer of fractions of such minimum, but the minimum shall not exceed the nominal amount of the shares from which the stock arose.

33.—The holders of stock shall, according to the amount of the stock held by them, have the same rights, privileges, and advantages as regards dividends, voting at meetings of the company, and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company) shall be conferred by any such aliquot part of stock as would not, if existing in shares, have conferred such privilege or advantage.

34.—Such of the regulations of the company (other than those relating to share warrants) as are applicable to paid-up shares shall apply to stock, and the words "share" and "shareholder" therein shall include "stock" and "stockholder."

Share Warrants.

35.—The company may issue share warrants, and accordingly the directors may in their discretion, with respect to any share which is fully paid up, on application in writing signed by the person registered as holder of the share, and authenticated by such evidence, if any, as the directors may from time to time require as to the identity of the person signing the request, and on receiving the certificate, if any, of the share, and the amount of the stamp duty on the warrant and such fee as the directors may from time to time require, issue under the company's seal a warrant, duly stamped, stating that the bearer of the warrant is entitled to the shares therein specified, and may provide by coupons, or otherwise, for the payment of dividends, or other moneys, on the shares included in the warrant.

36.—A share warrant shall entitle the bearer to the shares included in it, and the shares shall be transferred by the delivery of the share warrant, and the provisions of the regulations of the company with respect to transfer and transmission of shares shall not apply thereto.

37.—The bearer of a share warrant shall, on surrender of the warrant to the company for cancellation, and on payment of such sum as the directors may from time to time prescribe, be entitled to have his name entered as a member in the Register of Members in respect of the shares included in the warrant.

38.—The bearer of a share warrant may at any time deposit the warrant at the office of the company, and so long as the warrant remains so deposited the depositor shall have the same right of signing a requisition for calling a meeting of the company, and of attending and voting and exercising the other privileges of a member at any meeting held after the expiration of two clear days from the time of deposit, as if his name were inserted in the Register of Members as the holder of the shares included in the deposited warrant. Not more than one person shall be recognised as depositor of the share warrant. The company shall on two days' written notice return the deposited share warrant to the depositor.

39.—Subject as herein otherwise expressly provided no person shall, as bearer of a share warrant, sign a requisition for calling a meeting of the company, or attend, or vote, or exercise any other privilege of a member at a meeting of the company, or be entitled to receive any notices from the company; but the bearer of a share warrant shall be entitled in all other respects to the same privileges and advantages as if he were named in the Register of Members as the holder of the shares included in the warrant, and he shall be a member of the company.

40.—The directors may from time to time make rules as to the terms on which (if they shall think fit) a new share warrant or coupon may be issued by way of renewal in case of defacement, loss, or destruction.

Alteration of Capital.

41.—The directors may, with the sanction of an extraordinary resolution of the company, increase the capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

42.—Subject to any direction to the contrary that may be given by the resolution sanctioning the increase of capital, all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. Such offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the

expiration of such time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this article.

43.—The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture and otherwise as the shares in the original capital.

44.—The company may, by special resolution:—

- (a) Consolidate and divide its capital into shares of larger amount than its existing shares.
- (b) By sub-division of its existing shares, or any of them, divide the whole, or any part, of its capital into shares of smaller amount than is fixed by the memorandum of association, subject, nevertheless, to the proviso contained in the Companies Act, 1867, Section 21.
- (c) Cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.
- (d) Reduce its capital in any manner and with, and subject to, any incident authorised, and consent required, by law.

General Meetings.

45.—The statutory general meeting of the company shall be held within the period required by the Companies Act, 1900, Section 12.

46.—A general meeting shall be held once in every year at such time and place as may be prescribed by the company in general meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

47.—The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

48.—The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition or, in default, may be convened by such requisitionists as provided by the Companies Act, 1900, Section 13. If at any time there shall not be within the United Kingdom sufficient directors capable of acting to form a quorum, any director or any two members of the company

may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

Proceedings at General Meetings.

49.—Seven days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day, and the hour of meeting, and, in case of special business, the general nature of such business shall be given in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

50.—All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, the consideration of the accounts, Balance Sheets, and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

51.—No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, three members personally present shall be a quorum.

52.—If within half-an-hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, and if at such adjourned meeting a quorum is not present within half-an-hour from the time appointed for the meeting, the members present shall be a quorum.

53.—The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company.

54.—If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

55.—The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more notice of the adjourned meeting shall be given as in

the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment, or of the business to be transacted at an adjourned meeting.

56.—At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded in case the resolution be proposed as a special or extraordinary resolution by at least five members or in any other case by at least two members, and, unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the Book of Proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution.

57.—If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

58.—In the case of an equality of votes, whether on a show of hands, or on a poll, the chairman of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.

59.—A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

Votes of Members.

60.—On a show of hands every member present in person shall have one vote. On a poll every member shall have one vote for each share of which he is the holder.

61.—In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the Register of Members.

62.—A member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, *curator bonis* or other person in the nature of a committee or *curator bonis* appointed by such Court, and such committee, *curator bonis* or other person may, on a poll, vote by proxy.

63.—No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

64.—On a poll votes may be given either personally or by proxy.

65.—The instrument appointing a proxy shall be in

writing under the hand of the appointor or of his attorney duly authorised in writing, or, if the appointor is a corporation, either under the common seal, or under the hand of an officer or attorney so authorised. No person shall act as a proxy unless either he is entitled on his own behalf to be present and vote at the meeting at which he acts as proxy, or he is appointed to act at that meeting as proxy for a corporation.

66.—The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of such power or authority shall be deposited at the registered office of the company not less than forty-eight hours before the time for holding the meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

67.—An instrument appointing a proxy may be in the following form, or in any other form which the directors shall approve:—

Company, Lim.

"I, _____ of _____, in the County of _____, being a member of the _____ Company, Lim., hereby appoint _____, of _____, as my proxy to vote for me and on my behalf at the [ordinary or extraordinary, as the case may be] general meeting of the company to be held on the _____ day of _____, and at any adjournment thereof.

Signed this _____ day of _____."

Directors.

68.—The number of the directors and the names of the first directors shall be determined in writing by a majority of the subscribers of the memorandum of association.

69.—The remuneration of the directors shall from time to time be determined by the company in general meeting.

70.—The qualification of a director shall be the holding of at least one share in the company, and it shall be his duty to comply with the provisions of the Companies Act, 1900, Section 3.

Powers and Duties of Directors.

71.—The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company as are not, by the Companies Acts, 1862 to 1900, or any statutory modification thereof for the time being in force, or by these articles, required to be exercised by the company in general meeting, subject nevertheless to any regulations of these articles, to the provisions of the said Acts, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulations made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

72.—The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term, and at such remuneration (whether by way of salary, or commission, or participation in profits, or partly in one way, and partly in another), as they may think fit, and a director so appointed shall not, while holding such office, be subject to retirement by rotation, or taken into account in determining the rotation of retirement of directors; but his appointment shall be subject to determination *ipso facto* if he shall cease from any cause to be a director, or if the company in general meeting shall resolve that his tenure of the office of managing director or manager be determined.

73.—The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company (otherwise than by the issue of share capital) shall not at any time exceed the issued capital of the company without the sanction of the company in general meeting.

74.—The directors shall duly comply with the provisions of the Companies Acts, 1862 to 1900, or any statutory modification thereof for the time being in force, and in particular the provisions in regard to the registration of mortgages and charges affecting the property of, or created by, the company, and to keeping a Register of the Directors, and in regard to sending to the Registrar of Joint Stock Companies an annual list of members, and a summary of particulars relating thereto, and notice of any consideration or increase of capital, or conversion of shares into stock, and copies of special resolutions, and a copy of the Register of Directors, and notifications of any changes therein.

75.—The directors shall cause minutes to be made in books provided for the purpose—

- (a) of all appointments of officers made by the directors;
- (b) of the names of the directors present at each meeting of the directors and of any committee of the directors;
- (c) of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors,

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

The Seal.

76.—The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of at least two directors, and of the secretary, or such other person as the directors may appoint for the purpose; and those two directors and secretary or other person as aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

Disqualifications of Directors.

77.—The office of director shall be vacated:—

If he ceases to be a director by virtue of the Companies Act, 1900, Section 3.

If he holds any other office of profit under the company except that of managing director or manager.

If he becomes bankrupt.

If he is found lunatic or becomes of unsound mind.

If he is concerned or participates in the profits of any contract with the company.

But the above rules shall be subject to the following exceptions:—That no director shall vacate his office by reason of his being a member of any company which has entered into contracts with or done any work for the company of which he is director: nevertheless he shall not vote in respect of such contract or work: and if he does so vote his vote shall not be counted.

Rotation of Directors.

78.—At the first ordinary meeting of the company the whole of the directors shall retire from office, and at the ordinary meeting in every subsequent year one-third of the directors for the time being, or if their number is not three or a multiple of three, then the number nearest to one-third, shall retire from office.

79.—The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

80.—A retiring director shall be eligible for re-election.

81.—The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto.

82.—If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week at the same time and place, and if at such adjourned meeting the places of the vacating directors are not filled up, the vacating directors, or such of them as have not had their places filled up, shall be deemed to have been re-elected at such adjourned meeting.

83.—The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

84.—Any casual vacancy occurring in the board of directors may be filled up by the directors, but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

85.—The directors shall have power at any time, and from time to time, to appoint a person as an additional director, who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

86.—The company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead; the person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

Proceedings of Directors.

87.—The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A director may and the secretary on the requisition of a director shall at any time summon a meeting of the directors.

88.—The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall (when the number of directors exceeds three) be three.

89.—The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

90.—The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

91.—The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on them by the directors.

92.—A committee may elect a chairman of their meetings: if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

93.—A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

94.—All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends and Reserve.

95.—The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the directors.

96.—The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.

97.—No dividend shall be paid otherwise than out of profits.

98.—Subject to the rights of persons, if any, entitled to shares with special rights as to dividend, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid up on any of the shares in the company dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this article as paid on the share.

99.—The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for meeting contingencies, or for equalising dividends, or for any other purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit.

100.—If several persons are registered as joint holders of any share any one of them may give effectual receipts for any dividend payable on the share.

101.—Notice of any dividend that may have been declared shall be given in manner hereinafter mentioned to the persons entitled to share therein.

102.—No dividend shall bear interest against the company.

Accounts.

103.—The directors shall cause true accounts to be kept:—

Of the sums of money received and expended by the company and the matter in respect of which such receipt and expenditure takes place; and

Of the assets and liabilities of the company.

104.—The books of account shall be kept at the registered office of the company, or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

105.—The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorised by the directors or by the company in general meeting.

106.—Once at least in every year the directors shall lay before the company in general meeting a Profit and Loss Account for the period since the preceding account or (in the case of the first account) since the incorporation of the company, made up to a date not more than six months before such meeting.

107.—A Balance Sheet shall be made out in every year, and laid before the company in general meeting made up to a date not more than six months before such meeting. The Balance Sheet shall be accompanied by a report of the directors as to the state of the company's affairs, and the amount which they recommend to be paid by way of dividend, and the amount, if any, which they propose to carry to a reserve fund.

108.—A copy of such Balance Sheet and report shall, seven days previously to the meeting, be sent to the persons entitled to receive notices of general meetings in the manner in which notices are to be given hereunder.

Audit.

109.—Auditors shall be appointed and their duties regulated in accordance with the Companies Act, 1900, Sections 21, 22, and 23, or any statutory modification thereof for the time being in force.

Notices.

110.—A notice may be given by the company to any member either personally, or by sending it through the post in a prepaid letter addressed to such member at his registered address, or (if he has no registered address in the United Kingdom) at the address, if any, within the United Kingdom supplied by him to the company for the giving of notices to him.

111.—If a member has no registered address in the United Kingdom, and has not supplied to the company an

address within the United Kingdom for the giving of notices to him, a notice addressed to him, and advertised in a newspaper circulating in the neighbourhood of the registered office of the company, shall be deemed to be duly given to him on the day on which the advertisement appears.

112.—A notice may be given by the company to the joint holders of a share by giving the notice to the joint holder named first in the register in respect of the share.

113.—A notice may be given by the company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description, at the address, if any, in the United Kingdom supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

114.—Notice of every general meeting shall be given in some manner hereinbefore authorised to (a) every member of the company (including bearers of share warrants) except those members who (having no registered address within the United Kingdom) have not supplied to the company an address within the United Kingdom for the giving of notices to them, and also to (b) every person entitled to a share in consequence of the death or bankruptcy of a member, who, but for his death or bankruptcy, would be entitled to receive notice of the meeting. No other persons shall be entitled to receive notices of general meetings.

115.—Any notice, if given by post, shall be deemed to have been served at the time when the letter containing the same is put into the post office, and in proving the giving of the notice it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

The Scope of the Money-lenders Act, 1900.

(From *The Solicitors' Journal*.)

IN the case of *Samuel v. Newbold* (*Times*, 18th inst.), which has been decided by the House of Lords, that tribunal has adopted the broad view of the scope of the Money-lenders Act, 1900, taken by the Court of Appeal in *Re A Debtor* (51 W.R. 370; 1903, 1 K.B. 705), in preference to the more limited construction placed upon it by Ridley, J.,

in *Wilton v. Osborn* (1901, 2 K.B. 110). The question has arisen out of the somewhat unfortunate use of the word "otherwise" in Section 1 (1) of the Act. This provides that, where proceedings are taken in any Court by a money-lender for the recovery of money lent, "and there is evidence which satisfies the Court that the interest charged in respect of the sum actually lent is excessive, or that the amounts charged for expenses, inquiries, fines, bonus, premium, renewals, or any other charges are excessive, and that, in either case, the transaction is harsh and unconscionable, or is otherwise such that a Court of Equity would give relief, the Court may reopen the transaction . . . and relieve the person sued from payment of any sum adjudged by the Court to be fairly due in respect of such principal, interest, and charges as the Court, having regard to the risk and all the circumstances, may adjudge to be reasonable." Now, it may with some confidence be surmised that the Legislature intended to confer a jurisdiction to grant relief in money-lending transactions wider than that which had been exercised by Courts of Equity, and not merely to extend the equitable jurisdiction to any Court in which a money-lender might happen to be suing. The equitable jurisdiction applies to bargains with expectant heirs (*Earl of Aylesford v. Morris*, L.R. 8 Ch. 484), using that term in a wide sense to include all persons who have expectations of succeeding to property, and to whom money is lent on the credit of their expectations; but in *Nevill v. Snelling* (15 Ch.D. 679) Denman, J., held that it was not restricted to such cases, but existed generally where the money-lender had throughout been unconscientiously trading upon the weaknesses of the borrower. The real question, he said, in every case was whether the dealings had been fair, and whether undue advantage had been taken by the money-lender of the weakness or necessities of the person raising the money.

But however far Courts of Equity may have been inclined to carry their benevolent jurisdiction, it is unlikely that the Legislature intended that the bounds of this jurisdiction should have to be ascertained whenever application was made to a Court under the Money-lenders Act, 1900. The first consideration mentioned in the Act is that the interest or charges are excessive, and then that the transaction is harsh or unconscionable, and if these conditions exist, the statutory power to grant relief should arise. This construction would have been quite plain but for the words "or is otherwise such that a Court of Equity would give relief." As a matter of grammar, these suggest the conclusion that in speaking of transactions as "harsh and unconscionable" the Legislature meant that they were harsh and unconscionable in such a way and to such an extent that equity would grant relief. This is one ground for relief in equity, and then, in order to include any other possible ground of relief, the words in question were added, the effect being

that whatever ground for relief was made the subject of an application under the Act, it must be such a ground as would formerly have entitled the applicant to relief in a Court of Equity. This construction was placed upon the Act by Ridley, J., in *Wilton v. Osborn* (*supra*). "The 'section,'" he said, "includes all cases where the charges 'or interest are excessive, and where there has been conduct for which, as harsh, unconscionable, or unfair, a 'Court of Equity would give relief.'" But although this may be the grammatical effect of the words used, yet, as already suggested, it nullifies what may be supposed to have been the intention of the Legislature, and as it depends solely upon a strict interpretation of the word "otherwise," it is natural that it should not have been followed. Moreover, neither in the Court of Appeal in *Re A Debtor* (*supra*), nor in the House of Lords in the present case, has it been admitted that the words, taken grammatically, required Mr. Justice Ridley's construction. "Upon the natural grammatical construction of the words," said Collins, M.R., in the former case, "I think the words 'harsh and unconscionable' are distinct from and independent of the words 'which follow. Relief may be given if the bargain is 'harsh and unconscionable by reason of excessive interest 'or other excessive charges. . . . Two classes of cases 'are mentioned in the section—transactions which the 'Court is satisfied are 'harsh and unconscionable,' and 'transactions which are 'otherwise such that a Court of 'Equity would give relief.' Without giving an exact 'definition of the meaning of the words, it is sufficient to 'say that the standard is not only that which a Court of 'Equity would have adopted before the Act. The other 'construction would render the Act nugatory." And similarly, Romer, L.J., said: "The words 'harsh and 'unconscionable' ought not to receive a limited and 'artificial meaning by reference to the rules of equity 'before the Act."

The same view has been unanimously taken by the House of Lords in *Samuel v. Newbold*. A Court of law, said Lord Loreburn, C., ought not to be alert in placing a restricted construction upon the language of a remedial Act. "The 'section means exactly what it says—namely, that if there 'is evidence which satisfies the Court that the transaction 'is harsh and unconscionable, using those words in a plain, 'and not in any way technical, sense, the Court may reopen 'it, provided, of course, that the case meets the other condition required." And Lord Macnaghten laid stress upon the inconvenience which would result if the statutory jurisdiction were kept within the limits of the old equitable doctrine of relief. "What an intolerable strain," he said, "would be thrown upon inferior Courts unfamiliar with 'the doctrines and the practice of Courts of Equity if 'they were condemned or privileged to listen to lengthy

"arguments and venerable precedents before deciding a question which any man of common sense is just as capable of deciding as the most learned Judge in the land, if he is not hampered by authorities which require no little training to discriminate and appreciate at their true value. . . . It seems to me that there are two cases contemplated by the Act. One where the interest is excessive and the transaction harsh and unconscionable; the other where the interest is excessive and the transaction is such that without the necessity of proving the transaction to be harsh and unconscionable—without going into that question at all—a Court of Equity would give relief. It seems to me that those two cases are meant to be distinct. I think that is the grammatical construction of the language used." Special interest attaches to the judgment of Lord James in consequence of the prominent part which he took in the passing of the Act of 1900. The old Chancery jurisdiction, he observed, was too narrow to meet the cases of injustice which had arisen in money-lending contracts since the repeal of the usury laws, and the Legislature, who desired to remedy these evils by affording legal protection to borrowers, did not intend to leave the old law as it was. "The intention certainly was to give the debtor greater legal protection against the money-lender than then existed." And the learned Lord adopted to the fullest extent the view of the section taken by the Court of Appeal in *Re a Debtor* (*supra*). In this result Lords Robertson and Atkinson also concurred.

The circumstances in *Samuel v. Newbold* were peculiar, inasmuch as the position of the borrower, Alton, was such that there was really no need for him to have recourse to money-lenders. He was a wealthy man, and when he died, shortly after the transaction in question, he left an estate of £42,000. In the summer of 1903, however, he applied to a firm of money-lenders for a loan of £1,000, and this was advanced at a rate of interest which was described by the Lord Chancellor as exorbitant. But that transaction was ultimately settled. In September of the same year a further application for a loan was made, and this time £2,000 was advanced upon the footing of its being repaid, together with £1,300 for interest, by twelve monthly payments of £275 each, and upon any default the whole amount remaining unpaid was to become immediately payable. A promissory note for £3,300 was given by Alton. This, like the preceding transaction, the Lord Chancellor described as inexplicable except on the footing that Alton was unfit to manage business. Before making the second advance, the money-lenders had inquiries made as to Alton's position, and received a report that he was the owner of property and that it was not thought that any unreasonable risk would be incurred in granting credit to the extent named. Alton died in November 1903, and

there being in consequence default in payment of an instalment, the whole amount of £3,300 became payable. Had it been paid, said the Lord Chancellor, the money-lenders would have received interest at the rate of some 418 per cent. The money-lenders brought an action on the promissory note against Alton's executor, and the defendant claimed relief under the statute.

Having regard to the construction which, as already stated, the House of Lords placed upon the scope of the statute, the question for decision was whether the interest charged was excessive, and whether the action was harsh and unconscionable. That the interest was excessive was treated as clear. "In considering whether the interest is excessive," said Cozens-Hardy, L.J., in *Re A Debtor* (*supra*), "the Court must have regard, not only to the rate of interest, but also to the risk incurred by the lender and to all the other circumstances of the case." Here the money-lenders were aware that there was no risk. But, apart from the excessive interest, there appears to have been nothing very definite to show that the transaction was harsh and unconscionable, and it was necessary to decide whether this was sufficient, or whether further circumstances of oppression are required to give a right to relief. The view was taken in *Re A Debtor* (*supra*) that nothing further was wanted. "I should be sorry to say," observed Cozens-Hardy, L.J., "that the rate of interest charged and the other charges might not be so excessive as for that reason alone to render the transaction 'harsh and unconscionable.'" And this has now been affirmed by the House of Lords. "We are asked," said the Lord Chancellor, "to say that an excessive rate of interest could not be of itself evidence that the transaction was harsh and unconscionable. I do not accept that view. Excess of interest or charges may of itself be such evidence, and particularly if it be unexplained. If no justification be established, the presumption hardens into a certainty." And Lord Macnaghten observed that the rate of interest might be so monstrous as to show by itself that the transaction was harsh and unconscionable. Thus the judgment of the House of Lords establishes clearly enough the principles upon which the statute is to be applied, but it leaves it to the Judge to determine in each particular case whether the rate of interest, if this is the only ground for relief, is such as, under the circumstances, to entitle the borrower to relief.

"FROM A COLLEGE WINDOW," by A. C. Benson, London: Messrs. Smith, Elder & Co. Price 7s. 6d. net.—A third edition of this delightful book has now been published. The series of reflections which originally appeared in *The Cornhill Magazine* has been added to, and the work is one which can be read again and again with increasing interest.

Personal.

It is announced that the firm of FRANK DAVIES, MEREDITH & Co. was dissolved as on the 16th inst. Mr. MEREDITH is carrying on business at Prudential Buildings, Corporation Street, Birmingham, and at 82 Gresham House, Old Broad Street, E.C., under the style or firm of MEREDITH & Co.

MR. ERNEST SNOWDEN, Incorporated Accountant, of Cheapside Chambers, Bradford, has taken Mr. ALBERT E. STRINGER, Incorporated Accountant, of Bradford, into partnership. The practice will be continued after this date under the title of SNOWDEN & STRINGER, Incorporated Accountants.

MR. JOHN STUBBS, Chartered Accountant (Messrs. JOHN STUBBS & FRENCH), of Central Buildings, 41 North John Street, Liverpool, announces that he has taken into partnership Mr. E. W. CRAWFORD, who was articled to him, and admitted in November 1902. A branch office has been opened from the 1st inst. at No. 4 Lacey Street, Widnes, under the style or firm of JOHN STUBBS & CRAWFORD, Chartered Accountants.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, July 20th, was 168, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 87; Deeds of Arrangement registered, 81. The respective numbers in the corresponding week of last year were: Bankruptcies, 84; Deeds of Arrangement, 87—total, 171; being a decrease of 3. The total number of commercial failures recorded during the 29 weeks of the present year is 4,779; the total number recorded in the corresponding 29 weeks of last year was 5,055, showing a decrease of 276.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, July 20th, was 143. The number in the corresponding week of last year was 156, showing a decrease of 13. The total number filed during the 29 weeks of the present year is

4,345; the total number filed in the corresponding 29 weeks of last year was 4,778, showing a decrease of 433.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, July 20th, amounted to £1,688,514, by way of addition to £2,481,807, previously issued by the same companies. The amount registered in the corresponding week of last year was £4,006,668, showing a decrease of £2,318,154. The total amount registered during the 29 weeks of the present year was £47,615,097 (in addition to the issues in previous years by the same companies), as compared with £45,037,122 for the corresponding 29 weeks in 1905, showing an increase of £2,577,975.

The Profession in Scotland.

Personal.

Mr. George Morton, Junr., C.A., has been admitted a member of the Glasgow Stock Exchange Association, and Messrs. George Morton & Co., Accountants and Stock-brokers, 104 West George Street, Glasgow, have assumed him as a partner.

Edinburgh Society of Accountants.

At a general meeting of the Society of Accountants in Edinburgh, held last week—Mr. F. W. Carter presiding—the following gentlemen, having served apprenticeships and passed the prescribed examinations, were duly elected members:—William Gibson Carmichael, 23 Thistle Street, Edinburgh; Kenneth Henderson, 25 Drummond Place, Edinburgh; John McMillan Marshall, 5 North St. David Street, Edinburgh; Robert Milne Neill, 5 North St. David Street, Edinburgh; Walter Sanderson, 4 Kilmaurs Road, Edinburgh; Charles Somerville Turcan, 33 Royal Terrace, Edinburgh; Andrew Young, c/o Colombo Commercial Company, Lim., Colombo, Ceylon.

COURT OF SESSION.

Edinburgh—Outer House.

Before Lord Salvesen.

July 17.

**J. T. S. Doughty (J. Spratt's Trustee) v. C. Wells
and others.**

*Trust Deed—Granted on Behoof of certain Specified Creditors—
Creditor's Poining Challenged on the Ground that the
Effects Poined had been Conveyed to the Trustee under the
Trust Deed.*

Judgment was pronounced in this note of suspension and interdict by James T. S. Doughty, writer, Ayton, as trustee acting under a trust deed, dated 15th August 1905, for behoof of certain creditors granted by John Spratt, farmer, Broomhouse Mains, Berwickshire, against Charles Wells, money-lender, Corridor Chambers, Market Place, Leicester, and others. The complainer sought to interdict the respondent Wells from selling a steam engine, a threshing mill, a hay-cutter, a weigh machine, a bruiser, a set of fanners, and six agricultural horses, which had been poined by him as the property of his debtor John Spratt. The ground of interdict was that the effects actually poined were at the time of poining no longer the property of Spratt, but had been conveyed to the complainer as trustee for certain of Spratt's creditors. Defences were lodged for the respondent Charles Wells, in which he submitted that there was no relevant averment from which it could be inferred that Spratt had ever been divested of the poined effects in favour of the complainer.

Lord Salvesen found that the averments of the complainer were irrelevant and insufficient, and refused the prayer of the note with expenses. The trust deed, his Lordship said, was a somewhat unusual document. It proceeded on the narrative that Spratt had renounced his lease of the farm of Broomhouse Mains as at Martinmas 1905, and that he was indebted to the proprietor in certain rents, and to various merchants mentioned in accounts for goods supplied to the

farm. He then proceeded to assign and convey to Mr. Doughty, as trustee for behoof of these creditors, the whole crop, stock, and implements on the farm. Power was conferred on the trustee to take immediate possession, and to do whatever he might consider necessary for carrying on the farm until the expiry of the tenancy at Martinmas, and to sell and realise the estate conveyed. There was also authority to the trustee to employ the granter of the conveyance at £2 per week to manage the farm and to give him occupation of the farmhouse and garden and some other privileges. The object of the trust was to pay the creditors in full, and to account to Spratt for any surplus. It was plain from a subsequent clause that it was not contemplated that the trust should in any way be made public. Although, in form, this deed did not convey the *universitas* of the granter's estate it was said that in fact it did so, as the only other property which was in his possession, namely, his furniture, was claimed by his wife. The complainer averred that at the time of granting the deed John Spratt was solvent, and that he did not become notour bankrupt within sixty days thereafter; and he also founded upon the fact that the trust was not for payment of the whole creditors, but only of certain of their number. The deed was signed on 15th August 1905, and the poining was not executed until 24th October, so that the sixty days had expired before Spratt was made notour bankrupt at the instance of the respondent. If, therefore, the complainer had obtained delivery of the effects which were poined more than sixty days before the poining, his Lordship did not see how the transaction could be challenged either at common law or under the Act of 1696, for every creditor was entitled to use the utmost diligence to induce his debtor to pay his debts. But his Lordship did not think there was a relevant averment that the complainer ever obtained such delivery as would divest the granter and transfer the property in these movable subjects to him. It was well settled in law that a conveyance of movable property without delivery did not divest the owner in a question with creditors, and here there was absolutely no change of possession. There was a latent deed, which, no doubt, was effectual, between Spratt and the creditors for whose behoof it was granted; and if the complainer had, in virtue of that deed, taken actual possession of the subjects by transferring them to a warehouse or stable taken in his own name, delivery would have been complete and the property transferred. But nothing of that kind was done, and the

intention seemed rather to have been that Spratt should continue on the farm undivested until the expiry of his tenancy, when in ordinary course the stock would have been sold and the proceeds uplifted by the complainer.

HARMSWORTH ENCYCLOPEDIA.—Part 36 has just been issued, consisting of 160 pages, profusely illustrated.

WE have been favoured with a copy of the *édition de luxe* of the Great Eastern Railway Company's handbook, "Summer Holidays." Prominence has been given to some less known districts in East Anglia; and the facsimile water-colour and pen-and-ink illustrations have been made a special feature.

THE following two members of the Liverpool Chartered Accountants Students' Association were successful in connection with the recent examinations held by the Institute of Municipal Treasurers and Accountants (Incorporated):—Final Examination, Mr. A. E. Thoms and Mr. Morris Lodge.

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LAW REPORTS.

Bank Rate of Discount.

Sept. 28th 1905	4%
April 5th 1906	3½%
May 4th	4%
June 21st	3½%

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Leading Articles.

Secret Reserves.—IV.

IN concluding the present series of articles on Secret Reserves, which have been suggested by the recent decision of Mr. Justice BUCKLEY in *Newton v. The Birmingham Small Arms Company, Lim.*, we should like to draw attention to an aspect of the matter which, so far as we are aware, has as yet been entirely overlooked, but which is in point of fact the most important part of the whole business so far as our readers are concerned. We refer to the extremely delicate and onerous position that the auditor must occupy in all cases where there is a Secret Reserve upon such a wholesale scale as that contemplated by the Birmingham Small Arms Company, even supposing the ingenuity of counsel learned in the law has succeeded in devising regulations which the Courts will not interfere with as being an

interference with the statutory duty of the auditor.

It has now been held that articles of association which provide that, whatever happens, an auditor is not to make use of information of a certain kind acquired by him in the course of his audit are invalid, as being in contravention of Section 23 of the Companies Act, 1900, which affords the auditor access at all times to the books and accounts and vouchers of the company, and the right to require from the directors and officers of the company such information and explanation as may be necessary for the purpose of his duties. It was, however, intimated—informally doubtless, but, for all that, sufficiently clearly—that, with a little trouble, it would be by no means impossible for counsel to the defendant company to so modify the clauses that had been judicially held to be invalid as to be able for all practical purposes to secure what the directors required—namely, the right to deal as they thought fit with the surplus profits of the company, after providing for a dividend of 10 per cent. on the ordinary shares, without being called upon to in any way account for their dealings. Revised clauses, which, we understand, have been redrafted with that end in view, have already been submitted to the shareholders, although their exact nature has not yet been made public. The point to which we wish to now draw attention, however, is not one dependent upon the precise significance of the turning of a phrase. It goes directly to the root of all auditing, and can therefore be just as well considered in general terms as though we had before us at the time of writing the text of the revised articles. Indeed it is, perhaps, upon the whole even more convenient to discuss the matter upon this general basis, as by so doing

we are able to discuss it without taking sides in the controversy that is proceeding between the directors of the Birmingham Small Arms Company and certain of the shareholders.

In order to escape invalidity it would appear to be necessary for articles of association authorising the creation of a Secret Reserve to refrain from directing the auditor to keep silence as to the amount, constitution, or application of the Secret Reserve, thus leaving him free to perform his statutory duty of reporting to the shareholders whether in his opinion the Balance Sheet referred to in his report is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs, as shown by the books of the company. It has been judicially stated (and, of course, the point was never seriously in doubt) that, so long as everything is in order, the auditor's report to the shareholders may be in the most concise form, and that it is only when there is something wrong that any necessity arises for the auditor to go into details, or even to mention—or comment upon—any special item in the accounts. But when matters are not as they should be it becomes necessary for the auditor to draw the shareholders' attention to his opinion, not merely in general terms—as, for instance, by saying "I am of opinion that the Balance Sheet referred to in my report is improperly drawn up, and does not exhibit a true and correct view of the state of the company's affairs"—but to go further and explain, shortly at least, *why* he thinks it is wrong, and perhaps even to add what he considers to be the right view with regard to the point at issue. As we have already said, any articles of association which are to be effective must reserve these statutory powers to the auditor; but there is apparently nothing to

be said against articles which, while stopping short at purporting to forbid the auditor from discharging the whole of his duties, by implication discourage him in every possible way from making any report to the shareholders concerning a certain specified section of the affairs of the company—viz., its Secret Reserve. The inevitable effect of such articles, however they may be worded, must of necessity be to increase the difficulty always experienced by every auditor when, owing to his being dissatisfied with the accounts as submitted, he finds it necessary to add something to the stereotyped and general form of report which may be regarded as a "clean bill of health." In any event, no auditor would lightly cumber his report with disputed statements of opinion, for it is, of course, common knowledge that auditors who find themselves in disagreement with directors do not as a rule have a long tenure of office. There is thus the most excellent of all reasons—self-interest—in favour of an auditor not interfering whenever he can by any possibility avoid doing so without risking his professional reputation, to say nothing of a possible heavy pecuniary loss as a result of an action for negligence or of misfeasance proceedings. Yet, apparently, there is nothing improper in articles of association doing their best to intimidate the auditor into keeping silence longer than he would otherwise be disposed to do, so long as it can be stated that they do not purport to actually forbid his speaking.

It comes down to this, of course—that so far as the self-respecting auditor is concerned such clauses must be regarded as absolutely redundant. No auditor who appreciates his responsibilities would think of going out of his way to draw the attention of shareholders to Secret

Reserves legitimate in extent, properly created, and regularly dealt with; and no specially ingenious form of articles is necessary to sanction such reserves, or to secure a discreet reticence on the part of the auditor with regard thereto. The difficulty would arise (if it arose at all in practice) in connection with doubtful classes of companies. If the Secret Reserve were to be utilised—as there is an undoubted danger that in certain cases it might be utilised—as a cloak for malpractices, if the audit is to serve any useful purpose, it would be necessary for the auditor to sound a warning at the earliest available moment, rather than to wait until matters had so far developed as to render it practically impossible for undesirable steps to be retraced. Yet, at the moment when alone any really useful purpose would be served by the auditor speaking, it seems not unlikely that he might not be possessed of sufficient evidence to satisfactorily *prove* to others those grounds for distrust which had been effectively operating in his own mind. Every practical man knows how narrow is the margin between being satisfied and being dissatisfied with the result of an audit, and upon that margin there is, even with the most experienced (and perhaps most with them), a natural hesitation to adopt a course which will undoubtedly be unpopular, may eventually prove to have been unnecessary, and is certainly not absolutely essential for his own preservation; in that, even if matters are drifting in the wrong direction, they have certainly not yet gone so far as to land the auditor in any legal liability if he keeps silence. The number of companies whose affairs are in this precise state of unstable equilibrium at the moment of audit will naturally never be large; but—in some cases, at least—it must be obvious that articles of association which go out of

their way to discourage an auditor from taking the shareholders into his confidence, even in a document which ought never to become public property, in the nature of things cannot make for efficiency. Moreover, it is unfair to the auditor that, in addition to his existing and already sufficiently onerous duties, he should have the further responsibility thrust upon him of deciding when it is necessary that a Secret Reserve should be secret no longer, and when the obvious intention of the articles, that it should remain "secret" in every sense, may be respected without risk. In the nature of things, no Balance Sheet can be an absolutely accurate statement of the position of affairs, and it must therefore be over-favourable or over-cautious. For obvious reasons, in the case of all prudently conducted undertakings, the over-cautious basis is adopted, and there is thus in connection with every sound company a Secret Reserve. That, however, is entirely different from a Reserve created by bodily taking realised profits out of the business, charging the moneys so spent against Revenue as an expense, and then dealing with those moneys—either investing them, speculating with them, giving them away, or what not—in such manner as the directors may, in their sole discretion, think fit. If the amount so withdrawn from time to time were duly disclosed, there would be no difficulty about the auditor's position, for the moneys withdrawn might be actually taken away from the legal ownership of the company, and thus simultaneously withdrawn from the auditor's investigation. But, for obvious reasons, an audit framed upon the lines of only partial disclosure must be one which, under the most favourable circumstances, possesses a correspondingly limited value, which is in danger of being still

further depreciated by the least error of judgment, should any untoward circumstances arise. For all practical purposes, it seems to us that in such cases it would be simpler, and safer, to dispense with an audit altogether, for shareholders would then know how they stood, their position being that they must perforce rely implicitly upon the honesty, judgment, and prudence of the directors, who, under these circumstances, do not give them any full account of their stewardship, or even a sufficient one to enable their actions to be criticised or judged.

The Fall in Consols.

THE persistent fall in the market price of Consols and other trustee securities raises several questions of interest to our readers, which may be appropriately considered in their various bearings before their proper treatment compels attention at the close of the current year.

For many years it was the custom of banks and other first-class undertakings to value Consols for the purposes of their accounts at 90, even although perhaps at the date of those accounts Consols stood some twenty or more points higher. For all intents and purposes the practice amounted to the institution of a Secret Reserve; but the wisdom of such a reserve has been abundantly shown by the fact that it has since been found necessary to reduce Consols to 85. And the necessity of a further reduction is now well within measurable distance—not perhaps because there is any immediate danger of Consols going below 85, but because the public has become so accustomed to Consols being under-valued that it

looks with uneasiness at a price which it knows is getting dangerously near the book-figure at which investments, representing in the aggregate many hundreds of millions, are valued for purposes of account.

Investments in Consols and other similar securities may, roughly speaking, be said to come under two headings: (1) investments intended to accumulate, and not to be realised until some remote future period; and (2) investments intended to act as a floating reserve, or stand-by, so that in case of need a liberal supply of *cash* may be obtained at short notice for the purposes of the undertaking. Investments of the latter description must clearly, for prudence sake, be so valued that, if ever the necessity for their realisation arises, they may then be sold at all events without loss; and if they be so valued that, when sold under these circumstances, they are sold at a small profit, it will certainly be of use as tending to steady matters at a somewhat critical juncture. In considering the proper valuation of investments representing a floating reserve, it is important to bear in mind that in the nature of things the time when, if at all, it will become necessary to have recourse to such a reserve may be expected to be a time when prices are at their lowest—that is to say, a time of financial stringency and distress, if not of actual panic. For such purposes there was never anything very far wrong with the old-fashioned valuation of Consols at 90. £10 may have been regarded as a reserve built up to provide for the loss expected to occur when interest was reduced from $2\frac{1}{2}$ per cent. to $2\frac{1}{4}$ per cent., and the remaining £10 or £12 as a reserve to cover loss likely to be experienced if ever the occasion arose requiring them to be realised at all at short notice. The necessity

does not exist to provide for a further reduction of interest at the present time; but to secure an adequate margin of safety, so that under the worst imaginable circumstances Consols might be realised at a day's notice without loss, it is clear that a valuation of £80 at the present time would be more in keeping with the requirements of the situation than a valuation of 85, or even $87\frac{1}{2}$, as is employed in some quarters.

With regard to permanent reserves, the position is, however, very different. By “permanent reserves” we refer not so much to undivided profits which it is not proposed to distribute, but rather to moneys that are being accumulated for utilisation at some far-distant date—as, for instance, the reserves of a life insurance company which represent the difference between the annual premium and the equated premium set aside and accumulated at compound interest, so that in the later years of the policy, when the equated premium is less than the natural premium, these reserves may be available to meet the deficiency; or, again, investments of a Sinking Fund, built up for the purpose of replacing an asset, or redeeming a loan, at a distant future date. In these cases, where the investment is definitely “earmarked,” and is practically held in trust for a specific purpose, the current price is of comparatively little importance so long as there is every reasonable ground for supposing that when the time comes for the investment to be realised it will fetch its book value. There is certainly no reasonable ground for supposing that Consols and other similar securities will permanently remain at their present low prices, and it is therefore quite unnecessary for accumulated permanent

reserves to be written down to current values, or for annual instalments to be increased in order to make up for any possible depreciation that may take place hereafter.

Indeed, the position is, if anything, the other way about. Regarded from the point of view of the investor who can afford to wait, there can be little doubt that the present is an exceptionally favourable time for buying gilt-edged securities, and that therefore there are good grounds for supposing that a more or less substantial profit will eventually be made upon stocks purchased at the present low figures. There is thus no necessity to increase the annual instalments which have been in the past calculated as adequate, on the ground of the present fall in the price of Consols; indeed, one may go somewhat further, and say that the present times are distinctly favourable to those who have to accumulate investments for future use. Not only can first-class securities be now bought at a price yielding an unusually high rate of interest from year to year, but there is also good ground for supposing that when the investments are ultimately realised a substantial profit will be made upon those stocks which have been purchased at anything like the present low prices. If this view were carried to its logical conclusion, it would follow that the Sinking Fund calculations might be reduced accordingly, and the annual instalments decreased, so long as the present unfavourable conditions obtained; but the wisdom of adopting such a course is, of course, an altogether different matter. Sinking Fund instalments have necessarily to be calculated upon the assumption that a given rate of interest will *upon the average* be secured, and that upon realisation of the investments they will *upon the average* yield the original cost

price. No calculation based upon an average experience can be safely, or indeed properly, revised from time to time merely because the circumstances of the moment appear to be favourable. The existing favourable conditions in the nature of things cannot be expected to continue, and thus the revised scale of calculations could not be permanently adhered to. Moreover, it is only reasonable to suppose that the present period of depreciation will be followed sooner or later by one of expansion, when prices will rule at a higher rate than those which formed the basis for the Sinking Fund calculations. A calculation which is based upon the expectation of an average result being achieved must be strictly and honestly adhered to throughout, for the effect of any temporary modification must be to require a corresponding modification in the other direction to be made later on, and thus the primary object sought to be attained by the calculations—namely, the provision at a definite future date of a specified sum by means of equal annual instalments set aside and accumulated at compound interest—is deliberately foregone. Our object in drawing attention to the fact that the present low prices are favourable to Sinking Funds is not with a view to suggesting that the calculations of annual instalments may accordingly be revised upon the reduced basis, but rather as pointing out that this circumstance compensates in no small degree for any temporary shrinkage in value that may have been experienced during the past few months. In so far as investments are held as a stand-by in case of sudden need, their current realisable value must, of course, be taken into consideration, if the true facts of the position are to be faced; but permanent

investments stand rather upon the same footing as fixed assets, the current realisable value of which is, strictly speaking, immaterial for the purposes of periodical accounts.

Income Tax on Tithe Rent-Charge.

TITHE rent-charges exist almost everywhere in England and Wales. They were originated by agreements or awards made under the Tithe Commutation Act, 1836. They vary with the price of corn, according to a scale fixed by Section 9 of the Corn Returns Act, 1882; and it is the duty of the Board of Agriculture to work out the result of this scale at the end of every year, and to publish it in the *London Gazette* as soon as possible in the next year (Section 10 of Act of 1882). In general a tithe rent-charge is payable by two equal half-yearly payments on the 1st of January and the 1st of July in each year; but in some cases they have been made payable on the 1st of April and the 1st of October (Section 67 of the Act of 1836). Until the commencement of the Tithe Act, 1891, tithe rent-charges were payable by the occupiers of land and not by the owners, and the mode of collecting income-tax, alias landlord's property tax, was fixed on that assumption. It happened accordingly that the occupier paid landlord's property tax on the amount of his rent and deducted from his rent the amount so paid, and paid the balance of his rent to his landlord; and he paid the tithe rent-charge to the tithe-owner without any deduction, and the tithe-owner was separately assessed for income-tax, and paid income-tax on the amount which he received from tithes, and on his other income also.

The Tithe Act, 1891, supervened on this set of circumstances, and transferred the liability to pay tithe rent-charge from the occupier to the owner. It enacted that in future any agreement by an occupier to pay it should be void, just as an agreement by an occupier to bear his landlord's property tax is void; and it even went so far as to say that in the case of existing leases containing a covenant by the lessee to pay the tithe rent-charge the covenant should be void and the landlord should pay it, but should be entitled to recover from the lessee the amount so paid by way of additional rent.

We fancy that, as a matter of fact, the last-mentioned provision has not been acted upon in prac-

tice. The collectors of tithe rent-charges had a machinery in operation whereby they collected the requisite sums from occupiers, and where old leases existed they found it most convenient for all parties to continue to apply to the occupiers and obtain the money from them, rather than to apply to the owners, and leave the owners to recover the amounts over from the lessees. But more than fifteen years have now passed since the commencement of the Tithe Act, 1891, and old leases have been constantly running out and new leases have been granted, under which the occupier is necessarily exempt from the payment of tithe rent-charge, and the burden of it falls on the landlord (*Lord Ludlow v. Pike*, 1904, 1 K.B. 531). Under such leases it naturally happens that the lessee pays a rather higher rent than he would have to pay if the burden of the tithe rent-charge fell upon him. And now, if the occupier is assessed for taxes at his full rent and pays landlord's property tax thereon and deducts it from his rent, the landlord suffers the loss of property tax upon the whole; and he also has to pay tithe rent-charge, so that the income derived by him from his property is full rent minus tithe rent-charge, and minus also income-tax on the full rent. It is pretty clear that this result is unfair. The landlord ought only to pay income-tax on the net rent—that is to say, on the rent minus the tithe rent-charge; and, if the rent reaches him minus income-tax on the full amount, he ought to be allowed to deduct income-tax from the tithe rent-charge which he pays, just as every mortgagor is entitled to deduct income-tax from the interest which he pays to the mortgagee. It is arguable that permission to make such a deduction is given by Section 102 of the Income-tax Act, 1842 (5 & 6 Vict. c. 35), which may be found set out on p. 7 of *The Accountant Law Reports*, in the report of the recent case of *Shrewsbury v. Shrewsbury* (22 *Times* L.R. 598), and it would doubtless follow from this process that the tithe owner would not be liable to be assessed to income-tax on the sums paid to him from which income-tax has been deducted by the party paying the same, since that portion of his income would have paid the tax before it reached him, and he ought not to be called upon to pay it over again. This method of working justice would, however, fall heavily on the tithe owner, who would be troubled to discriminate between the payments made to him which came minus income-tax, and those which came without any such deduction. Moreover the law of assessment, which was framed before the passing of the Tithe

Act, 1891, appears to direct the assessable value of all property to be made on the assumption that the occupier pays the tithe rent-charge, as was the case at the time of the passing of the Assessment Acts. The Acts which at present regulate the assessment of property are the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), in the case of London, and the Parochial Assessments Act, 1836 (6 & 7 Will. 4, c. 96), in the case of the rest of England and Wales. The material words will be found in the definition of "gross value" given by Section 4 of the London Act, and in the first section of the General Act. In each case an estimate is directed to be made of the rent which the property would command on the terms that the tenant paid rates, taxes, and tithe rent-charge, and the landlord insured and repaired; this gives gross annual value, and the net or rateable value is arrived at by deducting the estimated cost of repairs and insurance. A certain scale of deductions is given in the London Act, and this scale appears to be frequently adopted out of London also, although not compulsory there. In this state of the law it is clearly desirable for landlords to notify to their tenants the amount of the tithe rent-charge payable by the landlord in respect of their holdings, and to direct them to deduct it from their rent in their returns for the purposes of valuation. They are paying such rent as a tenant would pay who does not pay tithe rent-charge, but they are only liable to be assessed on the rent which a tenant would pay who was burdened with the liability to pay it. The rent, minus the tithe rent-charge, is therefore the proper sum to be taken into account as the basis of valuation. Any landlords not already aware of this fact would do well to awake to it now. We may mention that we have recently discussed this question with the officials at Somerset House, and we find that they take the view that the method last indicated is the proper course to adopt.

A. D. TYSEN, Barrister-at-Law.

Weekly Notes.

The Value of Licensed Houses. Failing an appeal, two recent decisions of Mr. Justice Kennedy in the Court of King's Bench are likely to prove very far-reaching in their effect. Stripped of all elaboration and subsidiary particulars, the point, briefly, was whether, on the refusal of the justices to renew a license, the profits on sales should be taken into account in calculating the amount of compensation payable from the

special fund created by the Licensing Act, 1904. In holding that such profits *are* an element to be taken into consideration when awarding compensation the Judge evidently had in mind the fact that the duty imposed by the Act is that of finding the value of the licensed premises in the open market; for, as he is reported to have said, it cannot be right for the tribunal or authority which has to decide on the market value of licensed premises to refuse to admit evidence of profit which the possible purchaser would certainly treat as a most material factor in the formation of a right judgment as to the value of licensed premises. This view appears to be the only reasonable one that is possible, having due regard to all the circumstances of the case; and, if the decision is maintained, bare justice will only have been done to a much buffeted trade. Professional accountants should also find herein a new avenue of business, or, at any rate, an extension of an old avenue in a new direction.

The New Table "A." Mr. G. E. Barnes, the Comptroller of the Companies Department, in his annual report makes it clear that the Board of Trade intend to exercise the authority they already possess to revise Table "A," and it is proposed to adopt at once the new table drafted by Mr. R. J. Parker and Mr. A. C. Clauson, and to make it the model set of articles of association. This table is printed as a schedule to the report of the Committee on Company Law Amendment, and will doubtless at once command an increased attention in view of the numerous and radical changes involved.

New Insurance Risks. The recent seismic disturbances in South Wales have put the paragraph on his mettle, and we learn that insurance against earthquakes can be provided for in the United Kingdom at from sixpence to one shilling per cent., whereas the rate in New Zealand appears to be seven shillings and sixpence per cent. It is said that a novel form of insurance was recently effected by a well-known broker for a Leicester firm of manufacturing chemists, which had engaged an expert to carry out some important experiments. The cost of putting down the necessary plant and machinery was very great, and as the outlay would be wasted in the event of the experiments not being carried through, the firm insured against the possibility of the expert being taken ill and being prevented from fulfilling his engagement.

The Institute of Directors. It is reported that the King has granted a Royal Charter of Incorporation to the above body, which was founded some three years ago with the object of raising the status and qualifications of directors, and remedying abuses from which the investing public suffered.

Statutory Declarations and the Stamp Act. In an appeal from a decision of the Commissioners of Inland Revenue brought by the Reversionary Interest Society, Lim., before Mr. Justice Walton in the King's Bench Division recently, an interesting point was mentioned. The case briefly was whether, where more than one person joined in making a statutory declaration, the declaration was liable to more than one stamp. For the appellants it was argued that it was the number of transactions and not the number of persons that governed the number of stamps to be used. In the case under review a man having made a declaration that his first wife died leaving him a son, was joined by his second wife in the remainder of the declaration as to the number of the family by the second marriage. The Commissioners held that two stamps were required, and on their behalf the Solicitor-General maintained that the declaration of the husband respecting his first marriage and the joint declaration of husband and wife respecting the second and the issue therefrom were distinct matters, and should each be stamped. It was held, however, that it was one transaction, and judgment was therefore given for the appellant, with costs.

American Engineers. The special supplement to *The Financial News* issued in connection with the visit of the members of the American Institute of Engineers contains much information of a very interesting character, being replete with portraits and sketches of notable engineers on both sides of the Atlantic. We should, however, have been glad if our contemporary could have introduced a few of the opinions of our American cousins on the question of costing in engineers' shops. Perhaps this may yet be done before the visit terminates.

Municipal Audits. *The Municipal Journal* states that the report of the Inter-departmental Committee on Municipal Accounts will shortly be

issued, and our contemporary has "reasons for belief" that the Committee will report in favour of the application of a Local Government Board audit by competent and experienced auditors to all municipal "accounts." It is also remarked that municipal corporations cannot permit departmental auditors, however competent, to dictate financial policy, and in that way exercise an undesirable control over their enterprises. On the whole, therefore, we gather that our contemporary welcomes the probable appointment of auditors who are at least competent, and much is evidently hoped in the way of the silencing of anti-municipal critics. Having a prospect in view of setting the municipal houses in order, our contemporary would demand an audit of the accounts of "all electric lighting, tramway, and other company accounts on behalf of the public." There are many points here which seem to warrant a word or two by way of comment. In the first place, if the Local Government Board intend perfecting their audit staff by the appointment of experienced and competent auditors, they will remove the stigma under which the department has long suffered. In the second place, we have not seen any inclination to dictate financial policy in the past, and we do not know what reason our contemporary has for expecting it in the future. The difficulty, perhaps, is that what *The Municipal Journal* would call "financial policy" a professional auditor would designate by another name altogether, and one which might be quite within his province. We agree that if a proper system of audit be applied to municipalities, much of the sting will be ultimately removed from their critics' statements; but we do not altogether fall into line with our contemporary's suggestion that "all company accounts should be audited on behalf of the public." At present, all company accounts are audited on behalf of their particular public—namely, the shareholders; and with regard to certain concerns, in the nature of a public service, there already exists an independent check on behalf of the public applied by the Board of Trade, but what the general public have to do with the accounts of limited companies, in which they are not shareholders, is not at present apparent to us. It appears that our contemporary is running a little too far, for all this is based upon the assumption that certain events will happen, whereas, from our experience of the Local Government Board, events have a nasty habit of not happening exactly in the way that everybody expected.

Company Winding-up. An interesting point came before Mr. Justice Buckley in the case of *In re Jackson & Bassford, Lim.* The company was a private one, and as usual the largest shareholder was the prominent director, the predominant person in the company. He had guaranteed an overdraft, and at a subsequent board meeting it was agreed that in consideration of this guarantee the company would, whenever called upon by him to do so, give him a debenture by way of covering security. This debenture was not called for until about a fortnight before a resolution was passed for a voluntary winding-up. On the application of the liquidator, Mr. Justice Buckley set aside the debenture as a fraudulent preference, since it had not been given until the period prescribed for fraudulent preference had elapsed, namely, three months immediately preceding the commencement of the winding-up. It seems, therefore, that Section 14 of the Companies Act, 1900, is not quite the dead letter that was imagined.

Banking Profits. It is of interest to note that, in spite of the low prices of Stock Exchange securities and the period of financial tension through which we have been passing, banking dividends for the past half-year show no falling-off as compared with either 1905 or 1904. In the case of Williams Deacon & Co. there is even an increase, the rate of dividend for 1906 being 15%, as against 12½% in each of the previous four years. In the case of all the other leading banks the distribution is at the same rate as in the two previous years, ranging from 20% for the London and County, 19% for Parr's, and 18% for the London and Provincial and London City and Midland, down to 8% for Martin's Bank. Only three banks show a falling-off in disclosed profits, and in each case the amount is comparatively trifling, being £7,189 in the case of the London and Westminster, £1,202 the National Discount, and £96 for the National. On the other hand, Barclay & Co. show an increase of £52,992, the Union of London and Smith's an increase of £49,231, the Capital and Counties an increase of £38,139, and the London City and Midland an increase of £35,062.

The Urban District Councils' Association. The Sixteenth Annual Conference of the Urban District Councils' Association was held at Penrith on the 19th, 20th, and 21st ult., under the presidency first of Mr. Henry Winter, J.P. (Chairman of the Penrith

Urban District Council), and subsequently of Sir Thomas Roe, M.P. (of the Derby Town Council), who was elected President for the ensuing year. Among the resolutions passed was one expressing the opinion of the Conference that the present system of local government audit is unsatisfactory and requires amendment, recording approval of the recommendations contained in the report of the Joint Select Committee on Municipal Trading relating to public accounts and their audit, and expressing the hope that Parliament and the Local Government Board will take such steps as will give effect to those recommendations. Inasmuch as the question of audit was somewhat pointedly omitted from the reference to the Departmental Committee appointed some six months since by the President of the Local Government Board, the chances of this recommendation being acted upon in the near future do not appear to be conspicuously brighter than at the time when the Parliamentary Committee of 1903 reported.

Scottish Chartered Accountants in London. A correspondent, who desires to remain anonymous, has inquired whether we have heard that the Scottish Chartered Accountants in London, to the number of about one hundred, have applied for admission to the membership of the London Chamber of Commerce. This step, if carried out, would, he thinks, be fraught with grave consequences to the membership of the Institute, and compel the Council to recognise Scottish Chartered Accountants as on an equality in England with members of the English Institute. He further draws attention to the fact that the Scottish Final Examination is considerably less exacting than the English, does not cover all the subjects dealt with at the latter examination, and is a far less severe test, in that it can be taken by instalments. We do not, of course, wish to appear too alarmist, but it occurs to us that it would be well for our readers to inquire what foundation there may be for the rumour that has reached our correspondent; as, should it prove well founded, with the comparatively easy conditions for admission to the Scottish Chartered bodies and the absence of a limit to the number of articled clerks allowed to each Scottish C.A., there would appear to be a somewhat serious risk that the encroachments which have been steadily going on for some little time past, and which have already aroused considerable uneasiness, may be found more pronounced in

the near future. The complete silence with which our previous comments upon the matter have been received across the border certainly lends colour to the idea that there may be an organised policy afoot, which it would be desirable to consider and appropriately deal with before it is too late.

Graduated Income Tax. In connection with the proposition made by one witness before the Income-tax Committee now collecting evidence, that there should be a normal tax of 2s., and that persons with incomes of less than say five thousand pounds a year should, upon payment of tax at this rate, be entitled to apply for an abatement upon a graduated scale, Sir Felix Schuster has pointed out in evidence before the Committee that during the first three months of every year there is considerable stringency in the money market owing to the collection of taxes, which would in the nature of things be greatly increased if the normal tax were raised from 1s. to 2s. in the £, thus locking up double the present yield of the income-tax for many months until the various claims for abatement could be adjudicated upon and dealt with. It seems to us that the only practicable means of applying a differentiated income-tax would be to distinguish quite roughly between earned and spontaneous incomes, applying a higher rate of tax to incomes coming under Schedules A and C, and instituting as a sur-tax a special dividend tax upon all distributions by way of dividend, bonus, or annual interest paid by companies incorporated with limited liability. Such a distinction would not, of course, be exhaustive, and it would be theoretically imperfect; but it would at least have the merit of being readily collected without inconvenience, and without requiring the majority of taxpayers to first of all pay much more than was due from them, leaving them to afterwards recover the excess as best they could some six months or so subsequently.

Assessments for Rating Purposes. One of the elective auditors of the Ealing Town Council has been doing good work by drawing attention to the principle—or rather want of principle—upon which buildings within the Council's area are assessed for purposes of rates, and if his contentions are justified by the facts, it would appear that, whereas business premises and the more modern class of villas are assessed at their full rateable value, the older private residences are assessed at a figure which entirely ignores the con-

siderable appreciation of property that has taken place of recent years. If that be so, it is clear that the burden of rates in the Ealing district is not equitably borne, and that the occupiers of the older class of residential property are not contributing their fair share towards the aggregate expenditure. An attempt has been made to obscure the issue by pointing out that, if the assessments on this class of property were to be increased, the principal effect would be that Ealing, which already pays an unduly large proportion of union and county expenditure, would have to pay an even larger proportion. We are, of course, aware that many local authorities systematically undervalue their respective areas, with a view to avoiding payment of their fair share towards union and county expenses—a procedure which it would certainly be difficult to justify upon moral grounds, but which certainly suggests that some outside authority ought in all cases to be responsible for the rating. It is clear, however, that such an entirely irrelevant—albeit important—issue would not have been raised at the present time if it were practicable to deny that a considerable number of houses in Ealing are under-assessed, for it is only upon the assumption that a revised assessment would be an increased assessment that there could be any possible point in this argument. That the matter is one of considerable importance, and well worthy of careful consideration, may be gathered from the fact that in the auditor's opinion the aggregate assessment is too little by some £20,000, representing a deficiency in rates of some £6,000, the bulk of which has, of course, to be borne by those paying rates upon property which is assessed at its full rateable value. Until, however, the law provides that assessments shall be made by some authority entirely free from local influences, it is only to be expected that such anomalies should continue.

Current Law.

COMPANY LAW.

In re Hermann Bros., Lim.

C.A.

Held, reversing decision of Joyce, J. (*Accountant Law Reports*, XXXIV., p. 87), that the effect of failure to register debentures within the prescribed time cannot be to raise the claims of unsecured creditors, whose debts have accrued between the issue and registration of such debentures, to a level with debenture-holders. —(*Times*, July 27.)

INCOME TAX.

De Beers Consolidated Mines, Lim. v. Howe,
Surveyor of Taxes.

H.L.

Decision of Court of Appeal (*Accountant Law Reports*, XXXIII., p. 7), upheld. A foreign company, substantially controlled from this country, is "resident" in the United Kingdom for income-tax purposes.—(*Times*, July 31.)

Correspondence and Enquiries.

All communications to the Editor should be
by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinions expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Municipal Audit.

(To the Editor of *The Accountant*.)

SIR,—I enclose you cutting from the *Manchester Guardian* of to-day. No one knows, or ought yet to know, what the report of the Departmental Committee on Municipal Accounts will be. The question of audit was not referred to them, and is distinctly outside any proper inquiry that they are authorised to make. The entire purview of their inquiry is limited to what some of us have been recommending for twenty years past—namely, the uniformity of municipal accounts as to depreciation of trading undertakings, and the establishment of proper Income and Expenditure Accounts by corporations in opposition to the "pea-nut vendor's accounts," as they call them in America, of receipts and payments.

I take it that the writer of the article thinks, from recent publications, that this Local Government Board Committee will deal with the question of audit. But we have been distinctly told by the authorities of the Local Government Board that this Committee deals simply with the form of the accounts, and as they cannot very well recommend any system worse than the present Local Government Board Urban Council system, many of us look forward, with pleasant

anticipations, to what the report may bring out, although we have no very sanguine hope that it will be all we desire, owing to the overweighting of the Committee with Local Government Board officials and Local Government Board ideas.

Many corporations will still prefer most of the recommendations as to audit of the Joint Select Committee on Municipal Trading rather than be bound to the chariot wheels of the hitherto inefficient Local Government Board audit.

I enclose my card.

Yours truly,

A COUNTY BOROUGH TREASURER.

20th July 1906.

MUNICIPAL AUDIT.

THE REPORT OF THE SPECIAL COMMITTEE.

(From a Correspondent.)

I understand that the Report of the Departmental Committee on Municipal Accounts, shortly to be issued, will pave the way for the general application of the Local Government Board audit and the standardisation of municipal Balance Sheets so far as it is possible to effect that very desirable reform under the present circumstances. The Committee, which was appointed by Mr. John Burns at the beginning of this year, consists of eight members. The Chairman is Mr. Walter Runciman, M.P., Parliamentary Secretary of the Local Government Board, and the members include representatives of county councils, municipal corporations, urban district councils, and the professional societies of accountants. The Committee has taken a mass of evidence, and has made a minute examination of the various systems of bookkeeping adopted by the different classes of authorities. The form of accounts which will probably be recommended for adoption is one that is already used at the offices of a London borough council.

Assuming that the system of audit adopted by the Local Government Board safeguards the local authorities against undue interference by the central department in matters of policy, the inauguration of an efficient and uniform system of audit on the lines proposed will probably commend itself to the majority of the municipal corporations. It is not the fault of the latter that an alteration has not been made long ago. On more than one occasion the local authorities have pressed the Government to make a change, and thereby protect them from the unfair attacks that are constantly being made by the opponents of what is called "municipal trading." The municipalities have never objected to the audit of their accounts by persons who know how to audit; what they have objected to is a system of overloaded audit which, applied to the accounts of industrial enterprises, would make demands upon those

undertakings which no similar concerns privately owned are ever called upon to bear.

It is true that the Joint Select Committee on Municipal Trading which reported three years ago condemned the Local Government Board audit, as it condemned all other existing audits, and recommended their abolition and the substitution of a system under which the duties would be performed by professional accountants appointed by the local authorities but not dismissible by them except with the approval of the Local Government Board. The powers which it was proposed to confer upon these officials were, however, so wide and elastic that no municipal corporation which desired to retain effective control over its own financial policy could think of approving them. Besides their ordinary duties, these auditors were to express their opinions concerning the adequacy or otherwise of the provision made for depreciation, obsolescence, &c., in regard to municipal trading enterprises. Now, these are matters into which highly technical considerations invariably enter, and upon which expert advice has always to be sought. It is obvious that professional accountants are not qualified to express authoritative opinions upon, for example, difficult questions of engineering, in regard to which great differences of opinion exist even amongst experts.

If, therefore, we are to have a Local Government Board audit of municipal accounts, the system should be one that leaves the control of financial policy in the hands of the local authorities, which are responsible to the ratepayers alone. The public, too, have a right to demand that the audit shall be carried out by thoroughly competent accountants, and not by men whose principal object is to make showy criticisms on unimportant details. Local Government Board auditors have in the past too often tried to atone for their shortcomings in other respects by seizing upon trivialities and making a public stir by surcharging the members of local authorities with small amounts. This was a favourite practice under the late Government. Conservative Presidents of the Local Government Board have always been a drag upon enterprising authorities anxious for the development of local government on sound and proper lines.

A great step in advance, too, will have been made if the Departmental Committee is able to recommend a method of bookkeeping that will enable all accounts to be placed before the public in a uniform way. To some degree this has already been accomplished in regard to certain undertakings, but it will add to the general confidence in municipal enterprise if the ratepayers have accounts presented to them that may be easily understood and compared with reasonable facility with other accounts of a like nature.

Having placed municipal finance upon a sounder basis, the Local Government Board and other Government Departments might with advantage turn their attention towards obtaining a similarly effective supervision of the accounts of private companies whose undertakings will, with the lapse of time, become purchasable by public

authorities. Companies, unlike local bodies, are not confined in their operations by artificial boundaries that in many cases possess no relation to the commercial and industrial requirements of the community. Separate accounts are seldom kept of the business done within particular areas over which public authorities at stated periods are able to exercise their powers of purchase. Not only should these accounts be kept, but efforts should be made to secure that sufficient provision is made for maintaining plant and other material in a condition of efficiency, so that when the local authorities purchase they will be acquiring something of real service to the public. There is already a movement in Parliament to press this matter upon the attention of the Government.

Dual Appointments.

(To the Editor of *The Accountant*.)

SIR,—I should be glad to know your opinion as to whether it is considered the right thing for one member of a firm of Chartered Accountants to be a director of, and another member of the same firm to be auditor of the same company, and whether it makes any difference if the company is of a semi-private nature.

Yours faithfully,

26th July 1906.

ENQUIRER.

[This question has often been asked—and answered—before. The state of affairs referred to may be quite unobjectionable in a private company, but as a rule we think it undesirable.—ED. *Acct.*]

The Local Government Board Auditor and the Metropolitan Borough of Holborn.

(To the Editor of *The Accountant*.)

SIR,—The financial affairs of this borough have been so much in evidence for the past two or three years that one is apt to think that the delinquencies of its officers have been talked about to repletion; but what must be the feelings of the intelligent ratepayers and owners in the borough when they read the following certificate which is attached to the Council's Aggregate Balance Sheet at the 31st March 1906:—

"I do hereby certify that I have audited the accounts, of which the foregoing is the Balance Sheet, and that I have as far as possible satisfied myself of the correctness, completeness, and legality of the entries contained therein.

As witness my hand this 27th day of June 1906.

A. CARSON ROBERTS,
District Auditor."

Can any of your numerous readers explain what the auditor means, and whether the document can be said to be conclusive?

I am, Sir, yours faithfully,

27th July 1906.

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The Institute of Chartered Accountants in England and Wales.

At a special meeting of the Council, held on Wednesday, the 1st August 1906, at the Hall of the Institute, Moorgate Place, E.C., there were present:—Mr. W. B. Peat, President (in the chair); Mr. J. B. Ball, Vice-President; and Messrs. W. Ashworth, W. Blease, T. Bowden, E. M. Carter, Ernest Cooper, Sir Walter Fisher, Messrs. W. H. Fox, John Gane, A. H. Gibson, J. Gordon, T. Gregory, J. G. Griffiths, J. E. Halliday, B. W. Hardcastle, J. S. Harwood-Banner, M.P., D. Hill, W. C. Jackson, H. Woodburn Kirby, G. Walter Knox, A. O. Miles, W. Plender, T. G. Shuttleworth, G. Sneath, E. Waterhouse, F. Whinney, and F. J. Young.

Mr. William Henry Davis, F.C.A., of 34 Essex Street, Strand, W.C., having been adjudicated bankrupt, was excluded from membership of the Institute.

At the ordinary meeting of the Council, held at the conclusion of the special meeting,

It was reported that a Bill for Registration of Accountants in Natal had been rejected by the Legislative Assembly.

The Secretary reported—

(1) The appointment of Mr. H. Woodburn Kirby as Chairman of the Applications Committee.

(2) The death of Mr. Richard Watson, F.C.A., Burnley.

It was resolved that Certificates of Practice be issued to the following members:—

Armstrong, Herbert Joseph (Greaves & Armstrong), 4 St. Nicholas Buildings, Newcastle-upon-Tyne.

Barnett, Ernest Edward (Whale, Barnett & Co.), 43 Bishopsgate Street Within, E.C.

Bayley, Arthur Bell, Milton Chambers, Milton Street, Nottingham.

Bowker, Charles Frederick (C. F. Bowker & Co.), 1 Gray's Inn Square, W.C.

Coates, Christopher George, 206 Gresham House, Old Broad Street, E.C.

Cockin, Eli (Edwards & Cockin), 23 Temple Row, Birmingham.

Coppack, Frank Stewart (A. Dangerfield & Co.), 56 Cannon Street, E.C.

Dixon, James Henry (Menzies, Dixon & Co.), Moorgate Court, Moorgate Street, E.C.

Dobell, Ernest (A. Dangerfield & Co.), 56 Cannon Street, E.C.

Gracey, Norman Waddell (Norman Gracey & Co.), Broad Street House, New Broad Street, E.C.

Griffith, Noël Ledbrook, 10 Charles Street, St. James's, S.W.

Handley, Arthur Raby (Handley & Wilde), Bank of England Chambers, Tib Lane, Cross Street, Manchester.

Hobbins, Herbert Charles (Parkinson, Mather & Co.), 8 King Street, Manchester.

Jee, William Hamlet, 2 Clinton Place, Seaford, Sussex.

Massey, John Wood (J. F. Remington & Massey), 50 Cherry Street, Birmingham.

Matthews, John Hoghton Stabb (Matthews & Co.), 2 Sudell Cross, Blackburn.

Miller, Thomas Burton, 141 Fenchurch Street, E.C.

Milne, Albert John, 40 Westmount Road, Eltham, Kent.

Norman, Alfred Richard (W. Norman & Sons), 9 Old Jewry Chambers, E.C.; and at Durban, South Africa.

Norman, Archibald Walter (W. Norman & Sons), 9 Old Jewry Chambers, E.C.; and at Calcutta, India.

Parker, John James (Watling, Parker & Thynne), 40 Broad Street, Bristol.

Porter, Richard Roberts (William Porter & Son), 3 King Street, Blackburn.

Routledge, Walter George, 1 Thorold Road, Ilford, Essex.

Sackett, Edward Stewart Gordon (E. G. Sackett & Son), 1 Middle Pavement, Nottingham.

Spencer, William Henry (Banner, Spencer & Co.), Central Buildings, 41 North John Street, Liverpool.

Stone, John Percy, 57 & 58 Chancery Lane, W.C.

Thynne, Herbert Sayer (Watling, Parker & Thynne), 40 Broad Street, Bristol.

Wood, Edward (Proctor & Proctor), 3 Grimshaw Street, Burnley.

A number of applicants were admitted members, and two Associates were elected to Fellowship. A list of those who complete their membership or Fellowship by the 16th inst. will appear in our issue of the 18th inst.

Companies (Winding-up).

Fifteenth General Annual Report by the Board of Trade under Section 29 of the Companies (Winding-up) Act, 1890.

To the President of the Board of Trade.

SIR,

I have the honour to submit the Fifteenth Annual Report on the various matters, administrative, financial, and judicial, within the Companies (Winding-up) Act, 1890. The Report includes a Report and Statistical Tables, prepared by the Comptroller of the Companies Department, furnishing particulars of the amount and character of company insolvency and of the results of winding-up, so far as ascertained, during the year 1905, and a Report by the Solicitor to the Board of Trade on legal proceedings conducted by him under the Act.

The following Account of Receipts and Expenditure has been prepared by the Treasury and presented to both Houses of Parliament in pursuance of Section 28 of the Act:—

ACCOUNT showing the RECEIPTS and EXPENDITURE in respect of PROCEEDINGS under the ACT during the Year ended 31st March 1906.

Particulars of Receipts	Amounts (Provisional figures)	Particulars of Expenditure	Amounts (Provisional figures)
	£ s d		£ s d
Net Amount received by the Inland Revenue Department for Stamps issued in respect of business under the Act (less estimated cost of collection and manufacture)	2,193 12 8	Salaries of Officers†	19,910 18 5
Amount of Fees received in cash (including Fees received in the County Court Department of His Majesty's Treasury)	12,053 16 0	Remuneration to County Court Registrars in respect of Companies' Business	149 6 5
Dividends on Funds Invested under Section 16 of the Act*	11,639 1 9	Miscellaneous Expenses	384 4 9
		Rent, Rates, Fuel, Light, &c.	2,881 19 0
		Stationery	1,072 18 0
		Estimated Cost of Audit	57 0 0
Total	£25,886 10 5	Total	£24,656 6 7

* After deduction of Interest paid out under Section 18 of the Companies (Winding-up) Act, being £1,604 19s. 2d. in 1905-1906.

† Including a sum of £1,808 representing the services of Officers of other Departments of the Board of Trade. The whole of the cost of the Comptroller's Office is not included, a sum of £2,000, the estimated cost of work not connected with winding-up business, being excluded.

The above figures show an increase in revenue of £1,098, as compared with the revised figures for the previous year; the expenditure has decreased by £1,179.

The following statement of receipts and expenditure in each year since the Act came into operation shows that there has been an average annual surplus of £546:—

RETURN showing the TOTAL RECEIPTS and EXPENDITURE on account of COMPANIES (WINDING-UP) PROCEEDINGS during the Years ended 31st March from 1892 to 1906.

Years ended 31st March	Total Receipts	Total Expenditure	Surplus	Deficiency	Average Annual Surplus
	£ s d	£ s d	£ s d	£ s d	£
1892 (15 months)	19,522 11 11	14,693 4 0	4,829 7 11	..	546
1893	29,235 3 6	20,456 15 8	8,778 7 10	..	
1894	35,942 1 5	33,856 5 9	2,085 15 8	..	
1895	33,844 3 8	34,825 12 1	..	981 8 5	
1896	37,163 5 8	34,985 2 7	2,178 3 1	..	
1897	25,008 18 4	31,681 5 11	..	5,682 7 7	
1898	31,865 14 1	30,505 14 10	1,359 19 3	..	
1899	27,290 15 3	28,878 19 5	..	1,588 4 2	
1900	24,329 1 7	28,062 12 0	..	3,733 10 5	
1901	28,193 12 9	27,496 1 8	697 11 1	..	
1902	28,462 2 3	28,418 11 11	43 10 4	..	
1903	30,083 11 11	27,653 8 5	2,430 3 6	..	
1904	24,704 19 6	27,106 5 9	..	2,401 6 3	
1905	24,788 11 9	25,835 12 1	..	1,047 0 4	
1906 (provisional figures)	25,886 10 5	24,656 6 7	1,230 3 10	..	
	£427,311 4 0	£419,111 18 8	£23,633 2 6	£15,433 17 2	

Companies Liquidation Account.

The total payments into and out of this account during

the year and the fifteen years ended 31st December 1905 were as follows:—

	Under Section 11		Under Section 15		Total	
	For the year ended 31 December 1905	For the 15 years ended 31 December 1905	For the year ended 31 December 1905	For the 15 years ended 31 December 1905	For the year ended 31 December 1905	For the 15 years ended 31 December 1905
	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d
Payments in	138,818 6 11	11,333,955 3 8	222,783 2 8	2,299,128 17 9	361,601 9 7	13,633,084 1 5
Payments out	192,275 16 10	11,239,292 16 6	211,939 18 7	1,896,937 16 10	404,215 15 5	13,136,230 13 4
Balance on 31st December 1905 ..	£ 94,662 7 2		£ 402,191 0 11		£ 406,853 8 1	

Amendment of the Company Laws.

The Committee appointed by the Board of Trade "to inquire what amendments are necessary in the Acts relating to joint-stock companies" have recently presented their Report.

The earlier sittings of the Committee were presided over by the present Lord Chancellor, Lord Loreburn, then Sir Robert T. Reid, G.C.M.G., K.C., M.P., until his acceptance of his present office, when the Board of Trade appointed Mr. C. M. Warmington, K.C., Chairman in his place.

The Committee have reported on all the questions to which their attention was specially directed by the Board of Trade, and many other questions which were submitted to the Committee.

The recommendations of the Committee will have the immediate and careful consideration of the Board of Trade.

Consolidation of the Companies Acts.

In anticipation of the recommendation of the Committee to that effect in their Report, the Board of Trade have caused a Bill to be drafted consolidating the Companies Acts, 1862 to 1900, viz.:—The Companies Act, 1862; the Companies Seals Act, 1864; the Companies Act, 1867; the Joint Stock Companies Arrangement Act, 1870; the Companies Act, 1877; the Companies Act, 1879; the Companies Act, 1880; the Companies (Colonial Registers) Act, 1883; the Companies Act, 1886; the Companies (Memorandum of Association) Act, 1890; the Companies (Winding-up) Act, 1890; the Directors' Liability Act, 1890; the Companies (Winding-up) Act, 1893; the Companies Act, 1898; and the Companies Act, 1900.

Table A.

Under the 71st section of the Companies Act, 1862, the Board of Trade are empowered to make such alterations as they deem requisite in the model set of articles of association contained in the first schedule to that Act, and known as Table A. No alteration has ever been made in Table A, which has consequently been without revision for over forty years, and has now become out of date and little adapted to modern requirements.

The Board of Trade, desiring to avail themselves of the varied business experience of the members of the above-mentioned Committee, invited them to consider in what way Table A ought to be amended.

The revised Table A, which forms the schedule to the Report of the Committee, was drafted on the instructions of the Board of Trade by Mr. R. J. Parker and Mr. A. C. Clauson, and after revision by the Committee has been finally approved by them.

The Committee now report that they consider that the revised form may with advantage be adopted by the Board of Trade under their statutory power, and the Board propose to take immediate steps for this purpose.

Bond Investment Companies.

The Committee appointed by the Board of Trade under the Chairmanship of Mr. J. G. Butcher, K.C., "to inquire as to the operations of companies (not being life assurance companies) which collect periodical payments from the industrial classes in return for benefits promised in the future," duly made their Report to the Board of Trade.

The principal recommendations of the Committee are:—

- (1) That every company of the class under consideration which may hereafter begin to carry on business in the United Kingdom should be required to deposit in Court a substantial sum of not less than £10,000, which shall not be paid out until a fund is set apart and secured for the bondholders amounting to double the sum deposited.
- (2) That every such company shall be required annually to prepare a Revenue Account and Balance Sheet similar to that prescribed by the Life Assurance Companies Act, 1870, and once at least in every five years to cause an investigation to be made into its financial position by an actuary.
- (3) That any system under which bonds are wholly or partially paid off before maturity, or advances are made without interest, according to a scheme founded on chance or lot, should be prohibited by law.

The result of the Report of the Committee has been to check the growth of new bond investment companies, and some of the existing companies have voluntarily conformed to the recommendations of the Committee with regard to prohibiting the redemption of bonds before maturity according to schemes founded on chance or lot. Nevertheless, a Bill has been prepared carrying out the whole of the recommendations made by the Committee, and has been introduced into Parliament.

I have the honour to be,

Sir,

Your obedient servant,

H. LLEWELLYN SMITH.

Board of Trade,

July 1906.

ANNEX No. 1.

Report by the Comptroller of the Companies Department on the general working of the Companies (Winding-up) Act, 1890, for the year ending 31st December 1905.

To the Secretary of the Board of Trade.

Sir,

I have the honour to submit, for the information of the Board of Trade, the following Report upon the working of the Companies (Winding-up) Act, 1890, and on matters connected therewith, in relation to companies which went into liquidation during the year ending 31st December 1905. The Report, in accordance with the practice hitherto adopted, includes information furnished by the Registrar of Joint Stock Companies.

Number of Companies Wound up.

The total number of cases in which winding-up proceedings were begun during the year 1905 is as follows, viz. :—

(1) Under the Act of 1862.

Voluntary liquidations	1,587
Voluntary liquidations, subject to supervision of the Court	17

(2) Under the Act of 1890.

Compulsory liquidations by order of the Court	89
Total	<u>1,693</u>

Additions to and Removals from the Register.

It appears from the returns of the Registrar of Joint Stock Companies that the number of new companies registered in England and Wales during the year ending 31st December 1905 was as follows, viz. :—

Total number of new companies 3,967
From which should be deducted—

(1) Companies which have gone into liquidation	1,693
(2) Companies removed from the register under the provisions of the Companies Acts, 1880 and 1900	1,112
	<u>2,805</u>
Net increase during the year	<u>1,162</u>

Companies not for Profit.

Of the 3,967 companies registered during the past year, 41 were, under the provisions of the 23rd section of the Companies Act, 1867, licensed by the Board of Trade to be registered with limited liability but without the addition

of the word "limited" to the name, as associations formed not for the purposes of profit. Of the 41 associations to which licences were granted, eight were for the promotion of religious objects; eleven were charitable in their nature; eight had artistic or scientific objects; nine were for the promotion of the general interests of various branches of commerce, and the remaining five associations had various objects which were considered by the Board of Trade to be within the terms of the section.

Licences to Companies not for Profit to hold Land.

During the year 1905 the Board of Trade have, under the powers conferred on them by the 21st section of the Companies Act, 1862, granted licences to hold more than two acres of land to 31 associations formed not for the purposes of profit.

Changes of Name by Companies.

During the past year the Board of Trade, under the powers vested in them by the 13th section of the Companies Act, 1862, have given their sanction to the change of name on the part of 170 companies.

Appointment of Auditors by the Board of Trade.

The power vested in the Board of Trade under the 21st section of the Companies Act, 1900, to appoint an auditor, if an appointment of auditors is not made at an annual general meeting, was exercised in four cases during the year 1905.

Enforcement of Returns to the Registrar of Joint Stock Companies.

Proceedings to enforce returns to the Registrar of Joint Stock Companies, and the filing of documents required by statute, have been taken by the Solicitor to the Board of Trade in 55 cases, and fines have been imposed by the magistrates before whom the proceedings were brought in 50 cases.

Proceedings have also been taken in six cases against liquidators in voluntary liquidations to enforce the filing of accounts, and in five cases to compel the payment in to the Bank of England of moneys shown by the accounts to be due to the Companies Liquidation Account.

Further particulars of these proceedings will be found in the report of the Solicitor to the Board of Trade.

Number of Companies Registered during the past Ten Years and Total Amount of their Nominal Capital.

The following table shows the number and the total amount of the nominal capital of companies registered at Somerset House during each of the past ten years:—

	Number of Companies Registered	Total Amount of Nominal Capital	Average Amount of Nominal Capital of each Company
1896	4,291	£285,261,077	£66,479
1897	4,750	269,391,715	56,714
1898	4,651	247,718,332	53,261
1899	4,528	229,570,438	50,700
1900	4,509	206,828,941	45,870
1901	3,132	137,479,441	43,895
1902	3,596	147,563,148	41,035
1903	3,692	115,637,364	31,326
1904	3,478	83,914,688	24,127
1905	3,967	108,655,043	27,389

The decrease in the amount of nominal capital registered, which was continuous from the year 1896 to the year 1904, has during the past year taken an upward turn, the total being £108,655,043, as compared with £83,914,688 in 1904. The gain is, however, very small as compared with the great losses shown in the earlier years of the decade. The number of companies registered during the year 1905 also shows an increase, the total of 3,967 being the largest number registered in any year since the outbreak of the South African War.

TABLE of the COMPANIES Registered in ENGLAND and WALES during the Years 1896 to 1905, classified according to the Amount of their Nominal Capital.

Nominal Capital		Year									
		1896	1897	1898	1899	1900	1901	1902	1903	1904	1905
Under £1,000	.. ..	162	164	169	170	363	260	238	289	267	320
£1,000 and under £5,000	.. ..	782	841	940	942	1,005	804	1,041	1,072	1,129	1,260
£5,000 " £10,000	.. ..	547	654	658	673	634	455	576	634	594	649
£10,000 " £20,000	.. ..	692	813	813	813	755	506	559	616	555	604
£20,000 " £50,000	.. ..	662	883	852	766	735	486	506	479	462	505
£50,000 " £100,000	.. ..	464	528	455	418	363	208	245	198	199	255
£100,000 " £200,000	.. ..	562	479	367	377	310	191	212	202	149	176
£200,000 " £300,000	.. ..	190	179	152	118	121	74	79	63	26	49
£300,000 " £400,000	.. ..	55	45	52	66	49	32	25	34	16	21
£400,000 " £500,000	.. ..	20	19	23	19	14	13	9	14	4	7
£500,000 " £750,000	.. ..	48	38	42	36	36	27	21	13	14	22
£750,000 " £1,000,000	.. ..	8	9	4	17	7	3	—	—	2	3
£1,000,000 and above..	.. ..	35	30	29	31	21	13	15	11	5	6
Totals .. ..	.. ..	4,227	4,682	4,556	4,446	4,413	3,072	3,532	3,625	3,422	3,877

It will be seen from the above table that for the year 1905 an increase is shown in each class over the figures for the year 1904, and the increase throughout, as compared with the preceding year, may be said to be evenly

COMPARATIVE FIGURES relating to COMPANIES issuing and not issuing a Prospectus during the years 1901, 1902, 1903, 1904, and 1905.

Year		1 Number and Nominal Capital of Companies which filed a Prospectus and to which Certificates that they were entitled to commence Business were granted		2 Number and Nominal Capital of Companies which filed a Prospectus but to which Certificates that they were entitled to commence Business were not granted		3 Number and Nominal Capital of Companies which filed a Declaration that the Company "does not issue any invitation to the Public to subscribe for its Shares"		4 Number and Nominal Capital of Companies which filed neither a Prospectus nor a Declaration	
		Number	Nominal Capital	Number	Nominal Capital	Number	Nominal Capital	Number	Nominal Capital
1901	.. ..	369	£48,676,500	76	£3,560,857	2,483	£69,646,072	204	£15,596,012
Percentage of Total	.. ..	11.78	35.41	2.43	2.59	79.28	60.66	6.51	11.35
1902	.. ..	358	26,753,544	91	2,527,075	2,966	100,509,266	181	17,773,263
Percentage of Total	.. ..	9.96	18.14	2.53	1.71	82.48	68.11	5.03	12.04
1903	.. ..	306	20,553,865	86	3,267,510	3,146	86,697,019	154	5,138,970
Percentage of Total	.. ..	8.29	17.77	2.33	2.82	85.21	74.96	4.17	4.45
1904	.. ..	246	12,798,795	53	1,835,075	3,069	64,867,515	110	4,413,303
Percentage of Total	.. ..	7.07	15.25	1.52	2.17	88.24	77.30	3.16	5.25
1905	.. ..	320	20,670,760	75	2,870,500	3,426	82,752,256	146	2,361,527
Percentage of Total	.. ..	8.07	19.03	1.89	2.64	86.36	76.16	3.68	2.17

distributed among all the classes. If, however, the first year included in the table be compared with the last, it will be clear that a great change has taken place during the past ten years in the character of the companies registered. Speaking generally, small companies have taken the place of large companies, and the growth in number of those with the smallest capital has been most marked. For instance, companies with a capital of between £1,000 and £5,000 have increased very much, the respective numbers being 782 for the year 1896 and 1,260 for the year 1905. On the other hand, a very marked decline is shown in the companies having a capital of between £100,000 and £200,000 and in those with a capital of between £200,000 and £300,000, the number of the former class registered in the year 1905 being 176, as against 562 registered in 1896, and in the latter class the number is only 49 for the year 1905, as compared with 190 for the year 1896.

During recent years the diminishing use of the prospectus has been from time to time pointed out in the Annual Report to the Board of Trade.

The most marked decrease took place in 1902, in which year the capital of companies issuing a prospectus fell from £48,676,500 to £26,753,544, and the percentage which the capital of such companies bore to the total capital fell from 35.41 to 18.14 per cent. The decrease continued through 1903 and 1904, the percentage of capital in the latter year being only 15.25 per cent., and the nominal capital of companies issuing a prospectus in that year being only £12,798,795. The figures for 1905 afford some indication that the tide is turning, the percentage of capital being 19.03 per cent., a higher percentage than that for any year since 1901.

The revival of the use of the prospectus is made more clear by the figures below, which have been supplied by the Secretary of the Stock Exchange Committee with regard to the companies with and without a prospectus respectively, which have come before the Committee for special settlement during each period of six months for the past six years. In the second half of the year 1900, with which the table begins and which was the period immediately before the Companies Act, 1900, came into operation, companies with a prospectus were more than twice as numerous as those without a prospectus. In the first half of 1904 the converse was the case, the companies without a prospectus being more than twice as numerous as those with a prospectus. The figures for the first six months of the current year show a return to almost exactly the same proportions which obtained in the second half of 1900, the percentage of companies without a prospectus being 30 for the first six months of the current year, and 31 per cent. for the second half of the year 1900.

TABLE of COMPANIES with and without a PROSPECTUS respectively applying to the Committee of the Stock Exchange for special settlement between July 1900 and May 1906.

	With Prospectus	Without Prospectus	Percentage of Companies without Prospectus
			Per cent.
July to December 1900	53	24	31
January to June 1901	91	65	41
July to December 1901	55	36	39
January to June 1902	66	63	48
July to December 1902	54	61	53
January to June 1903	38	59	60
July to December 1903	27	43	61
January to June 1904	19	42	68
July to December 1904	28	20	41
January to June 1905	25	33	56
July to December 1905	37	25	40
January to June 1906	50	22	30

The figures in the last column of this table seem to show that some cause or combination of causes came into existence about the beginning of 1901 which put a check on the issue of prospectuses and that these causes have now, at least temporarily, died away. The reason for the diminution in the number of prospectuses has been much discussed during the past few years, and has been commonly attributed to the operation of the 10th section of the Companies Act, 1900. This section imposed stringent regulations on the contents of prospectuses in order that full disclosure of all material facts should be made for the benefit of intending investors, and there is no doubt but that this section had the effect of making business men hesitate to allow their names to appear on prospectuses. But the provisions of the Companies Act, 1900, cannot have been the sole reason why promoters preferred for some years to launch new ventures without the aid of a prospectus, for the provisions of the Act of 1900 have not been altered in any way, and yet the proportion of companies now being issued with a prospectus seems to be practically identical with the proportion which was existing during the period immediately before the Act of 1900 came into operation.

It is therefore necessary to find some other cause for the decrease in number of prospectuses other than the Act of 1900, and probably the most powerful cause may be found in the scarcity of money for investment and for new ventures during the past four years, owing to the increase of national and local expenditure and to the heavy loans raised in 1901 and 1902 for war purposes. The scarcity of money for investment which undoubtedly existed naturally increased the risk of the promoter endeavouring to launch a new venture, and consequently he was inclined to adopt a course which caused him the least outlay in the event of failure. By "introducing" the shares of a company on the Stock Exchange, and selling them there, he avoided the

certain cost of circulating the prospectus and of advertisement, though doubtless he was not free from expenses in other directions.

Registration of Companies Abroad.

Though it is impossible to obtain any comparative figures on the subject, it may be stated as a fact that many companies seeking their capital in England are effecting registration outside. This is especially the case with companies formed to carry out some enterprise in one of the Colonies. Such companies now frequently register themselves under the laws of the Colony in which they are going to carry on their business. At first sight it would seem difficult to take exception to such a course, but the practice is not without serious disadvantage to the English investor. Each of the Colonies has different laws relating to joint-stock companies, and though in some Colonies the company laws closely follow those of this country, in others they afford less protection to the investor.

All Colonial companies registered with limited liability use the word "limited" at the end of the name, as in this country, and it is not possible to distinguish a company registered, say, in Rhodesia and under Rhodesian company law from one registered in England. The Report of the Company Law Amendment Committee suggests on this point that a company using the word "limited" should, in any prospectus inviting subscriptions in the United Kingdom, state the company's place of origin, and should, when carrying on business in the United Kingdom, be compelled to put up its name with the place of its origin on its business premises.

Guernsey Companies.

The practice of registering companies in the island of Guernsey, which began in the year 1902, appears to be on the wane. The figures which have been supplied by His Majesty's Greffier for Guernsey showed a heavy decline in the registrations of 1904 as compared with those of the preceding year. A still more marked decline is showed for the year 1905 as compared with 1904, and the figures for the first six months of the current year show a reduction to a negligible quantity.

The figures relating to registrations in Guernsey are as follows:—

—	Number of Companies Registered	Total Nominal Capital	—	Number of Companies Registered	Total Nominal Capital
1899 ..	2	£ 27,250	1903 ..	75	£ 18,890,000
1900 ..	3	5,500	1904 ..	60	14,887,140
1901 ..	5	123,000	1905 ..	39	7,851,000
1902 ..	53	18,053,000	1906 (first 6 mths.)	13	893,000

Companies Ordered to be Wound up by the Court in 1905.

The total number of companies ordered by the Court to

be wound up compulsorily during the year 1905 was, as stated above, 89, of which 56 were ordered to be wound up in the High Court, and the remaining 33 in the Palatine and various County Courts. A complete list of these companies appears in Table VIII. attached to this Report.

The average duration of life of these companies was 4.72 years; one of the companies had existed for 55 years, two for 22 years, while 13 had been registered less than one year before the winding-up.

A few of the companies ordered by the Court to be wound up have been selected below, and some details given of the result of the inquiries made by the Official Receivers as helping to throw some light on the working of the Companies Acts at present in force.

In many respects, and certainly so far as the number of persons interested is concerned, the most important failure of the year is that of Nelson & Company, Lim., which was registered in 1901, with a nominal capital of £101,000, its object being to acquire and continue the business of a tea dealer then being carried on by Rasmus Jensen, at Louth and elsewhere, under the style of Nelson & Co. About three years previously Jensen had launched a scheme by which he offered pensions of 10s. and 5s. a week to such of his customers who should become widows after having bought from him for a certain period half-pound or quarter-pound of tea every week at a price considerably above the market price. This attempt to combine a system of insurance with the sale of an article of general consumption rapidly achieved Jensen's primary object, which was to increase the sales of his tea and thus increase his profits. This object appears to have outweighed any serious considerations as to the soundness or otherwise of the scheme, and since the benefits offered were characterised by a liberality out of all reasonable proportion to the excess price placed upon the tea, the scheme attracted the notice of a large section of the public—principally of the poorer class—who were thereby induced to become regular customers. In 1901 the Board of Trade succeeded in securing the deposit of £20,000 in compliance with the Life Assurance Companies Act, 1870. The present company was formed immediately after the deposit of £20,000 was made, and although it was pretended that the life assurance part of Jensen's business was excluded from the business taken over by the company, there was no such exclusion in fact. The insurance scheme inaugurated by Jensen was continued by the company, with the addition of an important clause in the contract between the company and its customers, the terms of which were printed on cards supplied to each customer. This clause was to the effect that the pensions of 10s. and 5s. per week were to be paid rateably out of 75 per cent. of the net profits on tea, and all further liability on the part of the company was

negated. The business of the company was conducted on lines similar to those which Jensen had found successful, and the sales continued to increase with extraordinary rapidity, the company meanwhile making great use in its advertisements of the fact that the company was paying large sums weekly in pensions. At first the pensions paid were less in amount than the proportion of the net profits set aside for that purpose, and a reserve fund was created, but owing to the very large number of deaths the pensions soon began to increase, and with such rapidity that by the end of 1903 the amount of weekly pensions exceeded the proportion of profits then being set aside to pay them, and the company commenced to draw on its reserves. The directors then appear to have recognised the weakness of their scheme, but nevertheless it was, for various reasons, continued, one of the reasons being that the persons who controlled the business were making very large profits on the tea supplied to the company, in addition to participating in the dividends paid on the company's shares, which were held by a company specially formed to acquire them. During 1904 the sale of drapery goods was begun, and the widows' proportion of profits was increased to 85 per cent., but in spite of all efforts to avert disaster the pension fund was exhausted by the end of that year. Until then the company had endeavoured to conceal from the public the reckless and unsound character of the scheme, but once the public became aware of the inability of the company to pay the pensions the business collapsed.

During the three and a-half years of the company's existence upwards of £600,000 was paid in pensions to widows. During the same period upwards of £100,000 was distributed in dividends to shareholders. In addition very large profits were made by means of commissions on the amount of tea supplied to the company, the bulk of these profits being derived by two persons who controlled, either directly or through nominees, the policy of the company. The scheme in its inception was of an experimental nature, and was continued with the certainty of gain on the part of those who controlled it, but regardless of the loss which might accrue, and has in fact accrued, to a large number of poor people who were thus induced to pay more than the ordinary price for tea.

Mortgages on Future Assets by Floating Charges Issued to a Vendor.

The case of J. T. Beckett, Lim. (Manchester), is an example of the evils arising in the case of one-man companies, to which attention has frequently been called in preceding Reports. In this case the promoter, who was also the vendor, fixed the purchase-price to be paid by the company at £7,000, of which £3,000 was to be paid in debentures containing a floating charge on all assets present and future, and the balance of £4,000 in shares of

the company. Besides the shares issued to the vendor only seven shares were issued in all, making a total of £4,007. No fresh capital was brought into the business at the time of its formation or subsequently.

The Official Receiver reports that the amount of debentures issued to the vendor was considerably larger than the value of any existing or probable future assets, and thus the vendor became and remained master of the situation. He stood to win whatever the result of the company's trading might be. If the business was successful he would reap the profits in the shape of interest on his debentures and dividends on his shares, and if financial trouble should come he could exercise his power and obtain the appointment of a receiver and sweep up the whole of the assets of the company under his debentures. Meanwhile the vendor would enjoy all the benefit of private ownership, coupled with immunity from personal liability.

The result of the company's trading for the three years of its existence showed a profit of £144 in the first year, a loss of £725 in the second year, and a loss of £250 in the third year; and, according to the statement of affairs which was filed by the vendor after the winding-up order in November last, there are outstanding 60 unsecured creditors to the extent of £2,382, and the assets of the company are estimated to produce a total sum of £1,655, the whole of which will be taken by the debenture-holder, the unpaid-for goods supplied by the creditors going to swell the return to him.

The evil results in a case of this kind are obvious, but it is very difficult to suggest any way in which the evil can be remedied without interfering unduly with legitimate business. The whole subject was very carefully considered by the Company Law Amendment Committee, and they came to the conclusion that the only effective remedy for the evil would be to prohibit floating charges altogether, and to make all debentures issued in the future applicable only to such property as the company might possess at the date of issue of the debentures. The Committee, while appreciating the evils complained of, were unwilling to recommend so heroic a remedy, having regard to the widespread use which has been made of the floating charge by companies of every class during the past 30 years—a use so universal that it may be said to have become an integral part of our commercial system. Under these circumstances the majority of the Committee considered that the abolition of the power to create floating charges would be an evil greater than the disease which was to be cured by the change.

The Committee have, however, recommended in their Report that the registration of existing debentures and charges should be made more effective, so that creditors may be able to obtain accurate knowledge in this respect

as to the company with which they are dealing. In practice, however, it is found that creditors often neglect to avail themselves of accessible knowledge, or in the competition for business deliberately run the risk with the knowledge that the whole of the assets of the company are covered by debentures. It may be added that in the case under review the fact that £3,000 in debentures had been issued to the vendor and were outstanding had been duly registered with the Registrar of Joint Stock Companies, and an inquiry at Somerset House would have disclosed this to any person about to embark on commercial dealings with the company.

Satisfaction of Debentures.

Hobbs Brothers, Lim. (High Court), was formed in 1898, with a nominal capital of £17,000, to acquire a business of dealers in woollens. The company traded at a loss, and the vendors became largely indebted to it, but managed by fictitious book entries and other devices to conceal the facts for some years. A question of public interest is involved in the misrepresentations effected by filing at Somerset House two memoranda containing false statements as to the satisfaction of the company's debentures. The first memorandum, which was filed to assist in obtaining a loan of £2,000, stated that existing debentures for £1,500 had been satisfied. After the £2,000 had been advanced, and the alleged "satisfaction" reported in a trade journal, the directors, under pressure from a debenture-holder owning £400 of the original £1,500 of debentures, filed a second memorandum stating that the first document contained an error as regards four debentures for £100 each, but repeating the false statements regarding the remainder. Since the occurrence of this and somewhat similar cases the Board of Trade have amended the form of "satisfaction" of debentures which is filed with the Registrar of Joint Stock Companies, and have made it necessary that every such form should be verified by the statutory declaration of one of the directors and the secretary of the company.

Trading by Bankrupt in Name of a Company.

The Leeds Exchange and Discount Bank, Lim. (Leeds), may be mentioned as an instance of the use made by undischarged bankrupts of the Companies Acts for the purpose of trading and obtaining credit. The business of the "bank" was carried on by the manager, against whom a receiving order was made in 1900, and who is still an undischarged bankrupt, and his son. Though the promoter (the son) states that there were other directors, they do not appear to have acted, and the management has been in the hands of the promoter and his son without interference. Shares to the extent of £1,000 were allotted to members of the promoter's family, and there were no other shareholders. Unsecured liabilities are outstanding to the

extent of £1,417, of which, however, £908 is said to be due to the son of the promoter, or to firms or companies with which he is connected. Certain of the creditors allege that the amounts due to them were obtained by misrepresentation.

The London (Riverside) Cold Storage Company, Lim. (High Court).

This company is among the more important failures of the year. It was registered in 1901 with a nominal capital of £220,000 for the purpose of acquiring leasehold and freehold cold stores, the latter of which were to be built on land in the neighbourhood of Tooley Street, close to the river, but with no direct access thereto. The company was promoted by another company registered for the purpose, with a nominal capital of £10,150, which had entered into contracts for the purchase of the land and for the building and fitting up of the stores. The cost of the building to the promoting company was to be £81,000. The total cost of the property and agreements, to the promoters, was to amount in all to £149,000, including the preliminary expenses of the company promoted. The price to be paid by the company to the promoters was the sum of £269,700, payable £179,700 in cash and £90,000 in shares, thus giving them a profit of £120,700 in cash and shares. Of the purchase-price of £269,700, the sum of £140,000 was allocated to the cost of building, the cost to the promoters of this building being, as stated above, £81,000 only. Very shortly after the registration of the London (Riverside) Cold Storage Company, the promoters were relieved of their responsibility to build the stores, and the contracts which had been entered into were taken over by the company. Notwithstanding this fact, the company was not released from the liability to pay the whole of the consideration of £140,000, but only from £81,000, the estimated cost. The promoters, therefore, retained a sum of £59,000, for which the company got nothing. The whole of the purchase-price payable to the promoters was duly paid by the company.

In addition to the share capital of £220,000, the company created debenture stock for £80,000, applications for which were obtained by the promoters for a cash commission of £2,800. The prospectus of the company stated that the whole of the debenture stock had been applied for. The applicants were two companies working in close relationship with the promoters. They paid calls amounting to £20,000 (principally, it has since been ascertained, out of borrowed money), but failed to pay further calls made upon them. They are now both in liquidation. In consequence of their failure to complete the subscription, the company was unable to discharge its liability to the builders, and work upon the buildings came to an end.

Economic Bank, Lim. (High Court).

This company was founded in 1893 with a nominal capital of £1,000, afterwards increased to £50,000, to provide facilities for opening small accounts. The business was properly conducted for ten years, but at the end of the year 1903 an outside stockbroker named Grosvenor, acting on the instructions of Cochrane, of the "Royal British Bank," acquired most of the issued shares, and reconstituted the Board of Trustees with a view of using the funds for Stock Exchange speculations. Among the new trustees was a city tailor, who states that he knew nothing of company business or finance.

A series of transactions were then begun with a concern called the Financial and Commercial Bank, Lim. The first of these was the subscription by the Financial and Commercial Bank of the unissued capital of the Economic Bank, amounting to £36,859, upon the condition that the Economic Bank should deposit with the Financial and Commercial Bank an equivalent amount for two years at 5 per cent. This was carried out in January 1904, cheques amounting to £36,859 being exchanged. By the end of March 1904 the Financial and Commercial Bank had obtained from the Economic Bank good securities to the value of £37,800, which, according to the books of the Economic Bank, were held by the Financial and Commercial Bank as security for cash deposited with the Economic Bank, while, on the other hand, the Economic Bank purported to have deposited cash with the Financial and Commercial Bank amounting to £55,459. Although these accounts did not represent the actual facts, the Financial Bank furnished the auditors of the Economic Bank with certificates of their accuracy. Further, although the former bank had by the end of March 1904 realised all the securities, it supplied the auditors with a certificate that the securities were still held by them. In May 1905 the Financial and Commercial Bank, which owed the Economic Bank £75,000, went into compulsory liquidation, and the latter bank thereupon closed its doors. This case affords a gross instance of departure from the published objects of the company. According to the memorandum of association the Economic Bank was established "to encourage thrift," and it was provided that the bank should not engage in any discount operations or make any loans or permit any overdrafts, and was only to invest in trustee securities. The first two prospectuses contained the statement that "absolute safety will be assured to customers, as the investment of the moneys deposited with the company will be made solely in debentures and stocks authorised by the Trust Investment Act, 1889," and further, that "no money will be invested in mortgages nor in any class of security in the nature of a lock up."

(To be continued.)

Personal.

MESSRS. HUBBART & DUROSE, Chartered Accountants, of 10 South Parade, Nottingham, announce that they have admitted Mr. CHARLES JOHN PAIN and Mr. ALFRED ERNEST ROE as partners in the firm. The style of the firm will remain unchanged.

MR. A. W. PENROSE, A.S.A.A., Incorporated Accountant, of Leeds and London, has been appointed a Teacher of Bookkeeping and Commercial Practice under the Higher Education Department of the Leeds Education Committee.

MESSRS. STOWELL & BAYLEY, Chartered Accountants, have removed their offices from 62 King Street, Manchester, to Greys Buildings, 1 Booth Street, Manchester.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, July 27th, was 160, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 91; Deeds of Arrangement registered, 69. The respective numbers in the corresponding week of last year were: Bankruptcies, 95; Deeds of Arrangement, 84—total, 179; being a decrease of 19. The total number of commercial failures recorded during the 30 weeks of the present year is 4,939; the total number recorded in the corresponding 30 weeks of last year was 5,234, showing a decrease of 295.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, July 27th, was 166. The number in the corresponding week of last year was 156, showing an increase of 10. The total number filed during the 30 weeks of the present year is 4,511; the total number filed in the corresponding 30 weeks of last year was 4,934, showing a decrease of 423.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week

ending Friday, July 27th, amounted to £3,617,905, by way of addition to £2,122,587, previously issued by the same companies. The amount registered in the corresponding week of last year was £2,294,138, showing an increase of £1,323,767. The total amount registered during the 30 weeks of the present year was £51,233,002 (in addition to the issues in previous years by the same companies), as compared with £47,331,260 for the corresponding 30 weeks in 1905, showing an increase of £3,901,742.

The Profession in Scotland.

Obituary.

THE death took place on the 27th ult. of Mr. Archibald Francis Hamilton, C.A., of the firm of Outram & Hamilton, Chartered Accountants and Stockbrokers, 135 Buchanan Street, Glasgow. He joined the Society of Accountants in Glasgow in 1876. Mr. Hamilton, who was a native of Glasgow, had a very successful professional career, and at the time of his death was Vice-Chairman of the Glasgow Stock Exchange Association, a position which he occupied with much credit. For the past two years Mr. Hamilton was practically laid aside through illness, but the end came somewhat unexpectedly. He is survived by a widow and one son.

Mr. J. Pearson Callum, C.A., 25 Dublin Street, Edinburgh, died with startling suddenness on Saturday evening. He had been in his office transacting business as usual during the day, and his death later in the afternoon came as a shock to his friends. He had suffered for some time from partial paralysis of the legs, and his health was weakened thereby. Mr. Pearson Callum joined the Edinburgh Society of Accountants in 1880, and was a well-known member. He built up a good practice, and held a number of offices of a more or less public character. He was fifty years of age, and is survived by his widow. About a year ago he assumed Mr. J. G. Buchanan, C.A., as a partner in his business.

Aberdeen Society of Accountants.

A special general meeting of the Aberdeen Society of Accountants was held in the Secretary's office, 6 Golden Square, Aberdeen, on the 27th ult., Mr. James Milne, C.A., presiding. The following gentlemen were admitted

to the membership of the Society:—Mr. C. S. Dickie, late apprentice to Mr. Harvey Hall, C.A., and Mr. J. W. Milne, late apprentice to Mr. James A. Jeffrey, C.A.

Bank Rate of Discount.

Sept. 28th 1905	..	..	..	..	..	..	4%
April 5th 1906	..	..	..	..	..	..	3½%
May 4th	..	..	..	..	..	..	4%
June 21st	..	..	..	..	..	..	3½%

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SATURDAY, AUGUST 11, 1906.

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Extract from *Auditing*, by LAWRENCE R. DICKSEE, F.C.A.
(Page 190)

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Leading Articles.

Company Law Amendment.—I.

THE report of the Company Law Amendment Committee, which has recently been published and has been duly reproduced in these columns, appears (as is indeed natural with such documents) to have met with a somewhat mixed reception. For instance, our contemporary *The Financial News* states: "The 'first impression created by the Committee'

"report is that it is the sanest examination of "the subject that has ever been penned"; while, upon the other hand, *The Solicitors' Journal* states that: "The report can hardly be "regarded as a strong document. The Committee are so impressed with the magnitude "of company business that they are afraid of "interfering in any marked way with the "formation or management of companies, or "with their facilities of borrowing money." This view is practically confirmed by *The Law Journal*, which states that among all the amendments of the law suggested by the Committee, there is none that is "organic," adding that the Committee was "too profoundly impressed" with the benefits which have accrued to the country from company enterprise to suggest any fundamental changes. Inasmuch as one-half of the Committee appointed in February of last year were lawyers, it is, perhaps, a little surprising that the report should have received so comparatively cool a reception at the hands of the legal press; but, if the truth be confessed, it must be admitted that there is absolutely nothing of a sensational, and little of a novel character in the report.

The absence of any undue official element has left the Committee more than usually free to dwell upon the bright side of things, which would naturally be the side with which all the members of the Committee would be most familiar; indeed, there is ample justification for the opinion formed that the great majority of companies are honestly formed and conducted, and this is a view which we have put forward consistently for years past. At the same time, it must be admitted that the abuses, if relatively few in number, are still of sufficient importance to merit very careful consideration,

and we altogether question whether the numerous and somewhat complicated recommendations of the Committee will suffice to provide a remedy.

There will doubtless be abundant time to discuss and rediscuss this report before it comes up for consideration before Parliament in the form of a Bill, for no political capital is to be made out of such a matter as this, and non-political measures rarely receive special facilities. It will not be forgotten that it was not until six years after the Departmental Committee of 1894 had reported that the Companies Act, 1900, was enacted; and if all the points dealt with in the report now before us are to be considered, there seems to be little ground for expecting that matters will proceed more quickly. It is, we think, by no means improbable that the whole matter will be shelved indefinitely, for the Committee recommends a consolidation, or codification, of the existing Companies Acts as being of even more urgent importance than any amendment of the law that they feel able to recommend. Ever since 1890, at least, the urgent need for codification has been well recognised; but we cannot help thinking that it will be taken rather that the Committee's recommendations can wait a convenient opportunity, than that the necessity for codifying the existing law has become more vital, or more urgent, than it has been at any time during, say, the past fifteen years.

It will be remembered that four points were especially brought before the attention of the Committee at the time of its appointment—namely, the abuse of the prospectusless company; the abuse of the foreign company; the desirability of extending the provisions of the 1900 Act with regard to the registration of

charges to include all charges and mortgages ; and the amendment of Table A of the Act of 1862. The report is, however, by no means confined to these matters, nor are they all dealt with as being of paramount importance.

Five distinct reasons are given for the diminution of company registration during the past five years, and while these reasons doubtless exhaust the causes, no attempt is made to discuss their relative importance. The result is thus somewhat inconclusive. We are told that the drain of heavy public loans, the extra registration duty, increased stringency of the provisions of the 1900 Act, the effect of certain recent decisions as to the income-tax payable by companies carrying on business abroad, and the adverse conditions of the money market, are all responsible for a falling-off in the number of companies registered and an even greater diminution in their aggregate nominal capital. Two at least of these causes may, it is to be hoped, be regarded as only temporary ; but the effect of the other three would seem to be permanent, or at all events calculated to continue so long as the causes remain. The importance, therefore, of endeavouring to distinguish between the falling-off that has been due to preventable, and to unpreventable (although temporary) causes is sufficiently obvious.

With regard to the diminishing use of prospectuses, it is suggested that all companies not filing a prospectus before commencing business should be compelled to file a preliminary statement, containing similar information to that required by Section 10 of the 1900 Act in a prospectus, and that such statement "constitute a public document of which every "buyer of or subscriber for the shares of a "company would have constructive notice."

The effect of this recommendation would be to place the directors of a prospectusless company at a direct disadvantage, for their liability under the Act of 1890 is limited to the original allotment of shares, whereas under the Committee's recommendation the preliminary statement would constitute a representation to every *buyer* of, as well as to every subscriber for, shares in the company. So far as it goes, this recommendation would doubtless prove effective as a means of stopping the existing abuse, but there would, we think, be great confusion if the rights of buyers of shares (say) on the Stock Exchange differed according to whether or not such a "preliminary statement" had been filed ; and inasmuch as Stock Exchange buyers are seriously to blame for the vogue which the prospectusless company has obtained, it is, we think, manifestly unfair that they should be afforded any special facilities or privileges which are not enjoyed by the buyers of shares of companies that have issued prospectuses. The preliminary statement should in all cases *become* the prospectus, the filing of which should be compulsory as a condition precedent to the issue of any capital, whether or not such prospectus is published in any other way than by filing ; and buyers of shares, as well as subscribers therefor, should be entitled to its benefits. To avoid evasions through the piecemeal issue of shares as buyers can be found for them, we would suggest that, upon the prospectus being filed, the Registrar should issue an authorisation to the company to allot a specified number of shares (or debentures up to a specified amount, as the case may be), during the ensuing three months ; and that no company should under any circumstances allow shares or debentures, save under an authori

so given. The effect of this would, of course, be that, if the allotment did not take place quite shortly after the issue of the prospectus, the prospectus would have to be brought up to date and refiled before an allotment could be made. All difficulties in connection with subsequent issues, which represent a very difficult problem, would thus be entirely avoided.

Unregistered Debentures and Unsecured Creditors.

THE recent decision in *In re Ehrmann Bros. Lim.; Albert v. Ehrmann Bros., Lim.*, which will be duly reported in our "Law Reports," is worthy of fuller consideration than we have so far found space to devote to it, in that it affects, and that very materially, the position of all who may have dealings from time to time with joint-stock companies.

It will be remembered that the Companies Act, 1900, requires debentures to be registered within twenty-one days from the date of their issue, and while an application may be made to the Court to extend the time for such registration, such application is in practice only granted with the proviso that this order is to be without prejudice to the rights of parties acquired prior to the time when such debentures shall actually be registered. In the case under consideration, at a date subsequent to the issue of certain debentures, but prior to the date when they were actually registered, the company had incurred a debt to A. Shortly afterwards a debenture-holders' action was brought, and the question arose—upon the usual order for inquiries under the judgment in that action—as to what were A.'s rights under the afore-

said proviso, as against the debenture-holders who eventually registered their charges under the order of the Court.

Under Section 14 of the Companies Act, 1900, the effect of non-registration of debentures is not to invalidate the claim of the debenture-holder as a creditor of the company, but merely to invalidate his charge, which represents his security for the debt due to him, so that in any event a debenture-holder could not occupy a position *less* favourable than that of an unsecured creditor, and as such he is, under the most unfavourable circumstances, entitled to rank *pari passu* with the other unsecured creditors. When, however, an order extending the time for registration has been granted, subject to the usual proviso as to the rights of parties acquired prior to the date of such eventual registration, the position was held by Mr. Justice JOYCE to be that, not merely are the debenture-holders reduced to the level of creditors whose debts were incurred during the period subsequent to the issue of the debentures and prior to the date of their registration, but, further, the claims of such creditors are *enhanced*, so that for all practical purposes they become debenture-holders, or at all events become entitled to rank *pari passu* with the debenture-holders, although they themselves have never obtained, and never stipulated for, any charge on the company's assets.

This situation was, to say the least of it, unexpected; and it would, perhaps, not be going too far to say that it was probably *most* unexpected by the creditors whose position has been so advanced. If carried to its logical conclusion, it might prove an opening for the very gravest irregularities. Directors, to whom debts have accrued due

prior to the date of an issue of debentures, might deliberately abstain from registering those debentures until the statutory period of twenty-one days had gone by with the express object of thus exalting their own unsecured claims to the level of debenture-holders. Or, if such a device should be regarded as too transparent, and therefore as necessarily ineffective, it would at least be open to directors, under the ruling to which we have just referred, to disparage the claims of debenture-holders, and to enhance the claim of friendly unsecured creditors simultaneously, by neglecting to perform their statutory duty of registering all charges created within the prescribed period. There are, of course, penalties prescribed for such neglect; but they are rarely inflicted in practice, and in some cases at least might be well worth incurring for the sake of the ultimate advantage to be derived from securing such a position of affairs as that which this decision has now shown to be tenable. It is, however, unnecessary for us to labour the point further, or to suggest any remedy for this somewhat extraordinary position of affairs, as the Court of Appeal has held that unsecured creditors, who have acquired no rights against the property which is charged under the debentures, do not come under the terms of the proviso referred to, which is only meant to protect intervening rights—that is to say, the rights of creditors who may have acquired a charge on the assets subsequently to the issue of, but prior to the registration of, the debentures. We very much question whether this was the intention of the Legislature, but it is at least a very convenient way out of a most curious *impasse*.

The American System of Official Inspection of Life Insurance Companies.

IN view of recent disclosures, we feel sure that it will be of interest to our readers to become acquainted with the scope of the inquiry made by the State Inspectors appointed in New York to inquire into the solvency and financial position of all companies carrying on a life insurance business there.

These inquiries include answers to the following questions, given under oath by responsible officials of the company:—

- (1) Have the books of the company been kept open after the close of business December 31st last for the purpose of making any entry that affects this statement?
- (2) Is there a loading or margin for expenses on all policies over the net premium according to the State standard?
- (3) Is there any surrender value promised in excess of the reserve as legally computed? If so, what amount therefor has been included in liabilities, and where?
- (4) Is the business of the company conducted upon the mutual, mixed, or strictly proprietary plan?
- (5) What proportion of the profits of the company may be paid to the stockholders for use of real or guaranteed capital?
- (6) Does any officer, director, or trustee receive any commission on the business of the company?
- (7) Has the book value of any asset been increased during the year except to bring bonds towards par?
- (8) What proportion of premiums on policies issued by the company may be taken in notes, or other form of lien, on the policies?

That the above list of questions exhausts all possibilities of inquiry may well be doubted, and, indeed, recent disclosures show that there are many other ways, besides the receipt of a commission, by which an officer, director, or trustee may improperly receive benefits from the company whose interests he is bound to serve; but, stated in general terms, it must be admitted that the questions, so far as they go, are fairly searching, and that they (and others following upon the same lines) might well be answered under oath by the responsible officials not merely of all life insurance companies, but also of all public companies whatsoever.

Inquiry as to whether assets have been written up during the year "except towards par," however interesting it may be so far as it goes, by no means exhausts the matter; for there can as a matter of fact be no more justification for writing up the book value of bonds which stand at a discount than for writing up the book value of bonds which already stand at a premium. The question in each case is, in the first instance, whether any *bonâ fide* increase in value has as a matter of fact occurred; and, in the second place, whether such increase, even if truly in existence, can be properly taken credit for as profit in respect of the period under review.

The last question, as to whether payment has been made of any portion of premiums on policies issued by the company otherwise than in cash, is particularly suggestive, but somewhat ineffective in the form in which it is stated. In many cases there is certainly nothing improper in a portion of the premium of a policy being allowed to remain as a debt carrying interest against the policy, and there are a variety of methods known to British offices, all of which in fact come to the same thing. The question,

however, suggests an entirely different class of transaction which is by no means so easily defended—namely, that under which policies are issued in exchange for premiums not paid in cash, and not represented by debts chargeable against the policy, but paid in paper of a more or less doubtful value. An especially objectionable form of this particular class of transaction would be if, for the purpose of paying premiums, bonds were received under large discount and written up "towards par" during the period under review, thus showing an apparent profit, where in point of fact a liability had been undertaken in exchange for a consideration of perhaps little or no intrinsic value.

But the weak part about all systems of official audit is, of course, that the indiscriminating public is apt to assume that because an audit is "official" it must necessarily be effective; whereas experience shows that in almost all cases the work of inspection is performed less efficiently than it would have been by a private individual of reasonable professional qualifications, and—in the United States, at least—with certainly no added security against corruption. An illusory safeguard is, and must be, in all cases more actively harmful than the complete absence of any attempt at any safeguard whatever. In the latter event all persons interested are at least put upon inquiry, and are misled by no false reports, whereas a Government guarantee is in all cases (however much past experience may point to the contrary) assumed to be effective, and thus unless backed by financial responsibility—which it never is—represents, perhaps, the most mischievous form of false security that it is possible to conceive.

In our own country the nearest approach that we have had to anything of the kind has been

the inquiry made by the Local Government Board before allowing local authorities to borrow money. That inquiry is supposed to provide a reasonably effective guarantee that moneys so borrowed will be employed for *bonâ fide* capital purposes, and that adequate provision will in due course be made for the redemption of the liabilities undertaken. The experience of the past has shown that, owing to the inefficiency of the inquiries, capital expenditure (accompanied by a corresponding increase in the value of assets) by no means necessarily follows upon the actual borrowing of money; while the leave given to local authorities to invest Sinking Fund instalments in their own stock very seriously detracts from the value of the security offered by the institution of the Sinking Fund itself. There is here, of course, no suggestion whatever of corruptness, but merely of official inefficiency, and we, in this country, have seen what the serious consequences of an honest inefficiency may be. It is, however, difficult, if not impossible, for us to conceive of the possibility of official corruptness, and it is, therefore, extremely difficult for us to duly appreciate the significance of the present scandals in connection with certain life assurance companies, whose head-quarters are in the United States of America but whose business ramifications bring them into most parts of Europe, and especially into this country.

Weekly Notes.

The Union of Accountants Students' Societies in New Zealand.

Following upon the lines of Chartered Accountants Students' Societies in England, the Accountants Students' Societies of Auckland, Wellington, Christchurch, Dunedin, and Nelson in New Zealand, have formed themselves into a union and issued joint

transactions. Their first volume (which did not include the Nelson Transactions) was published in August last, and contained *inter alia* papers on "Jottings, by an Accountant," "The Bank of England, the Bank Reserve, the Bank Rate, and Foreign Exchanges," Mock Shareholders' Meeting, "Defalcations: their Prevention and Detection," "Capital Accounts," "The Audit of a Joint Stock Company's Accounts," "Formation, Operation, and Discharge of Contracts," "The Accounts and Duties of Trustees and Executors," "Notes on Value, Credit, and Money," "Law of Arbitration and Awards," "Insurance," "Bankruptcy and Insolvency Law"; while the second volume, issued in April, dealt with the following subjects:— "The Law of Trusts," "Double-Entry Bookkeeping," "Consignment Accounts and Bills of Exchange," "Auditing," "Shipping," "The Law Relating to Trustees and Executors," "Commercial Accounts," "Banking," "Bills of Sale," "The Origin of Commercial Law," "Defalcations: their Prevention and Detection," "The Sale of Goods," "The Accounts of Executors and Trustees." It will be seen that a considerable amount of work has been covered in the course of twelve months, and we congratulate accountant students in the Antipodes upon the highly satisfactory results of their combined energies.

Company Liquidation in 1906.

The report of the Controller of the Companies Department on windings up of companies during 1905, which has been reproduced in these columns, shows that the total number of new companies registered during the year was 3,967, against 3,478 in 1904, while the average nominal capital per company had risen from £24,127 to £27,389 during the year under review. One thousand six hundred and ninety-three companies went into liquidation, and 1,112 were removed from the register. There has, it is satisfactory to observe, been a steady decrease in the number of companies registered in Guernsey during the past few years, the figures being 75 in 1903, 60 in 1904, 39 in 1905, and 13 during the first half of the present year.

The Art of Collecting News.

A recent issue of *Lloyd's Weekly News* contains the following remarkable statement:—

"Parkhurst is soon to see another important release in the person of Benjamin Green Lake, t"

solicitor who was sentenced to twelve years' penal servitude at the Old Bailey on the 22nd January 1901, for fraud on the Law Society, of which he was secretary. The ground for the release is stated to be his continued ill-health."

It would be difficult to compress a larger number of misstatements into so small a space. Mr. Benjamin Green Lake was never the secretary of the Law Society, but was at one time (although not at the time of his conviction) its President, when it was known by the name of the Incorporated Law Society. The frauds of which he was convicted were not against the Society; and it is, indeed, difficult to imagine how any officer of that Society, from the President downwards, could obtain control of sufficient funds to make it worth his while to misappropriate them. Mr. Lake's frauds were against clients who were far less well-equipped to look after their own affairs than the Law Society. Incidentally it may be pointed out that there is the less excuse for this absurd paragraph in that it was published after a correct statement of the facts had appeared in several contemporaries; and it is, perhaps, calculated to cause serious misunderstanding, inasmuch as the present esteemed Secretary of the Law Society has held office for a considerable number of years.

The Long Vacation.

According to *The Law Times* it is very probable that the Long Vacation, which commences on the 13th inst. and ends on the 23rd October next, will be the last of its kind. The general consensus of opinion in legal circles is that a vacation commencing on the 1st August and ending about the 12th October would be much more convenient; and inasmuch as the present Lord Chancellor—unlike his predecessor—is favourably inclined to the change, there is every reason for supposing that it will be effected at an early date. There are, we need perhaps hardly point out, numerous other improvements and modernisations that may be hoped for as a result of the change of Chancellor, but it would occupy more space than we have now available to enter into these in detail.

The Central Association of Accountants.

A contemporary states that the first examination under the auspices of the Central Association of Accountants took place on the 29th and 30th June last, at London,

Manchester, and Liverpool simultaneously, when we learn that the total number of candidates was six, and that there were examinations both for Licentiates and Fellows. It is added that the next examinations will be held in December, when it is expected that there will be two or three times as many candidates. We should not be very greatly surprised to find that this modest estimate was justified. There must, no doubt, be many more than 18 unqualified men who would like to join some society which is capable of giving them some sort of diploma.

Bankrupts and Contempt of Court. On the report of Mr. Registrar Link later that Edwin George Saunders, a bankrupt, had refused to be sworn on the occasion of his public examination on the 17th ult., Mr. Justice Biggam, on the application of the Official Receiver, made an order for the debtor's committal, but directed that it should lie in the office for fourteen days, and added that it would not be enforced if in the meantime the debtor paid the necessary fees, together with the costs now incurred, and applied for a further appointment to proceed with his public examination. In the course of the application it was stated that the trustee was selling some of the estate, and that the debtor considered that a report of his public examination at the present time would prejudice the sale. There is, of course, no new point in the idea that a bankrupt who refuses to submit himself for examination in accordance with statute is guilty of contempt of Court; but there is something not a little humorous in the idea that one who is supposed to have been stripped of all his worldly possessions by the order of adjudication may purge that contempt by intimating his willingness to at a later date submit himself for examination, and upon payment of certain fees and costs. From a theorist's point of view, it might well be asked where the money to pay these fees and costs was to come from; but those who have any knowledge of practice in bankruptcy will be aware that, in the ordinary course of events, a bankrupt is always expected to have sufficient money in his pocket to pay Court fees, and that a debtor who is absolutely without means cannot obtain a receiving order even upon his own petition.

Current Law.

BANKRUPTCIES AND INSOLVENCIES.

Davis v. Petrie.

C.A.

Held, affirming decision of King's Bench Division, that payment of a debt to the trustee and a deed of assignment executed by the creditor does not relieve the debtor from liability to pay a second time to the trustee in the creditor's subsequent bankruptcy.—(*Times*, Aug. 6.)

COMPANY LAW.

In re Buhlmann Incandescent Syndicate,

Lim.

Buckley, J.

Held that, although the Court has jurisdiction to make a winding-up order against a company registered in Guernsey which is in process of voluntary liquidation there, the petitioner must make out a case for compulsory liquidation.—(*Times*, Aug. 1.)

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinions expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Secret Reserves.

(To the Editor of *The Accountant*.)

SIR,—In the leading article of your issue of last Saturday dealing with the abuses which you imagine Secret Reserves may lead to, you speak of the possibility of the secret funds being employed in paying corrupt bribes. You, however, entirely overlook the fact that directors can just as easily employ the general funds of a company in the same way, for the shareholders as a rule have no right "to call for an account" of any of the expenses incurred by a company, whether internal or otherwise. The Balance Sheet, which they are entitled to see, only shows the position of a company at a particular moment of time and gives no indication of how that position was arrived at. So directors of a

company having no internal reserve can bribe to their heart's content if it pays to do so, without the general body of shareholders knowing anything about it. Though why you should suppose that directors are greater rogues than shareholders or than any other class of persons I don't know.

Another danger you fancy you have discovered in internal reserves is the supposed facilities they offer to directors for corruptly applying the funds of a company to the benefit of themselves and their friends and to the injury of the company itself. This, however, is almost as fanciful as your first supposition. The protection afforded to shareholders against directors cheating them lies first of all in appointing men of reputation to be directors, and a second protection is the auditor, who has just as great powers in connection with the internal reserve as with the general funds of a company; and it is his duty to report if the directors misappropriate any of the funds, whether secret or otherwise.

The one other danger which occurs to your imagination is the opportunity an internal reserve affords directors of "levelling up" profits in bad years, and thus concealing losses occasioned by mismanagement, recklessness, or their own fraudulent dealings. But you forget that directors who possess the cautious spirit that leads them to not show as much profit as has really been made are not the sort of persons to do these things; and as to personal fraud, I have already pointed out that the shareholders are protected against this by their auditor, who affords a better safeguard than could possibly be obtained by the publication of a full Balance Sheet. It must be remembered, too, that, with powers for an internal reserve, the excess of assets over liabilities shown on the published Balance Sheet must always be, at any rate, as good as stated.

Internal reserves well-managed companies will have. If they are not authorised, they will be formed without authority; and in companies not possessing the powers in question, auditors have often to listen to all sorts of strained arguments attempting to justify Secret Reserves made in prosperous years, while the only real justifications for them are (1) the existence of a half-recognised custom, and (2) the fact that they are in the interests of the undertaking. It seems to me much more straightforward to have such reserves properly authorised, and I am sorry that you raise ill-considered and fanciful objections to them, which objections are published in other papers as authoritative opinions of the accountancy profession. From long and varied

experience of the working of such powers I have always found them to be wholly on the side of truth, for they enable directors and auditors to give information to shareholders or to withhold it from them in an entirely honest and straightforward way, which is hardly the case when the "discreet reticence" you advocate has to be exercised in connection with *unauthorised Secret Reserves*.

Yours truly,

ERIC M. CARTER.

Birmingham, 1st August 1906.

[Our correspondent has evidently misread our last article, but it does not seem to us worth while to repeat the arguments contained therein. We may point out, however, that it is quite erroneous to suppose that with an internal reserve (of the kind under discussion) the excess of assets over liabilities must always be as good as stated in the published Balance Sheet: as Mr. Buckmaster pointed out, the moneys set aside may be invested in an unlimited liability concern, and thus be of *minus* value. Of course, everybody knows that well-managed companies will always have secret reserves: it is their abuse, not their use, that is objectionable.—ED. *Acct.*]

Income Tax—Payment of Back "Duty" by Executors—Liability to Residuary Legatees.

(To the Editor of The Accountant.)

SIR,—I recently heard of a rather interesting case regarding the responsibility of executors who consider it their duty to atone for the alleged sins of their testator by paying up "Back Duty" to the Inland Revenue authorities.

A manufacturer died leaving a prosperous business; the executors proved the will, and after having sold the business they were requested by the Surveyor of Taxes of the district to favour him with a visit. The executors duly called upon the Surveyor, who alleged false returns on the part of the late manufacturer for years, and after several interviews the executors finally settled the matter by paying to the Inland Revenue authorities a large sum of money, supposed to represent the duty lost by the Revenue during the last ten years.

The residuary legatees under the will, however, have taken a different view of the matter; they say that the executors had no right to have paid this large sum of money, that it was a purely voluntary payment, and that the Inland Revenue authorities could not legally

have recovered it, and, therefore, that they intend to hold the executors personally liable to make good the amount.

It would be interesting to know whether the executors can be held personally liable for this amount; and, if so, and they have it to pay out of their own pockets, whether they will be able to obtain repayment of the same from the Inland Revenue authorities.

Perhaps, Mr. Editor, you, or some of your readers, will express an opinion regarding the steps that should be taken by an executor under the before-mentioned circumstances.

Yours faithfully,

A.C.A.

Capital Expenditure and Discounts.

(To the Editor of The Accountant.)

SIR,—The question raised by "F. R. M." in your issue of the 21st inst. is of more importance than at first sight seems apparent, and it is for the reason that I think the question should be still further ventilated that I am adding a few words to the discussion.

Your foot-note to the question in the issue of the 21st inst., viz., that probably the amount, *i.e.*, £500, would be *legally* divisible, and also your amplified remarks on the matter in your issue of the 28th inst. to the same effect, give one the opportunity of enquiring when the dictum was laid down, and whence the evidence of it may be found, that *cash* discounts, whatever the *nature* of the purchase may be, are, from a *strictly legal* point of view, capable of being credited to Revenue, and are thus *legally* divisible.

May I be allowed to say that I hold a distinctly opposite view.

In the ordinary course of things a purchase of machinery and plant is made with the intention of *increasing* the output of the manufactured article and the *earning* capacity of machinery and plant already in use.

If expectations are realised the result attained will be evidenced by an increase in the balance of the Profit and Loss Account; but to argue that a *so-called* profit can be *earned* by purchasing machinery, simply by making a cash payment within a certain time, is, to my mind, imprudent, impracticable, and indefensible.

Leaving out of the question for the moment the fact that money may have to be borrowed in order to obtain the discount, and, therefore, there is a relative charge against Revenue for interest on the same, it has been

advanced that a purchase of machinery which may be invoiced, say, at the sum of £5,000, and for which cash has been paid within a certain time to the tune of £4,500 (thus obtaining an allowance of £500 for discount), should be debited wholly to Machinery Account, and stated on the Balance Sheet at the same figure, viz., £5,000; the £500 obtained in respect of discount being credited to Revenue.

This is entirely against the great fundamental principles with which we have been inculcated from our youth upwards—viz., that assets with earning capacities should be stated at *net cost* price (or under).

It is easy to see that the machinery in question (subject, of course, to improvements and fluctuations) can be replaced practically at any moment for the sum of £4,500.

Why, then, should the gross amount of £5,000 be stated in the Machinery Account and on the Balance Sheet as being the value, and apparently the *cost* of the machinery purchased?

In order to illustrate my point, a few details in connection with a supposititious company would not be out of place.

Presume, then, that a small going concern is, for family and other reasons, turned into a private limited company having a capital of £6,000 made up as to

£1,500	Cash in bank
£1,000	Trade Debtors
£1,500	Stock on hand
£2,000	Machinery and Plant
<u>£6,000</u>	

the liabilities not being taken over.

The directors, seeing an opportunity of increasing the turnover, decide to lay down more machinery, for which they have ample cash in hand to make the payment.

They buy machinery to the amount of £1,600 on the terms of three months' credit net and 10 per cent. discount for cash (terms which in practice are found to be by no means uncommon), and decide to obtain the discount by a prompt payment of cash.

They thus obtain a rebate of £160, which, according to the *strictly legal* point of view, as you say, may be credited to Revenue.

Meanwhile, this healthy little company meets its liabilities with cash received from debtors, &c., and at the half-yearly period finds that it has a small balance to the credit of Profit and Loss Account, *excluding* the

amount of £160, discount obtained on the purchase of machinery.

Now, Sir, comes the crucial point. The *total* balance to the credit of Profit and Loss Account is sufficient to pay an interim dividend at the rate of 5 per cent. per annum on the total capital.

You say the directors would be *legally* correct in making the payment. My point is that an interim dividend so paid would be paid out of *capital*, as the balance to the credit of the Profit and Loss Account does not represent the *true* net profit for the period, and that *per contra* the asset for machinery is overstated by the sum of £160; the *actual cash paid*, viz., £1,440, being the amount that ought to be debited.

The case instanced may appear to be highly imaginative, but it illustrates my point, and, after all, it is probably not so impracticable as it may seem.

To revert for one moment to the case of a company having to pay interest for the accommodation of money in order to obtain cash discounts on its purchases.

I grant you, Sir, that there will be a charge against Revenue for interest on the amount loaned for the purpose of buying the machinery—say, to the bankers by way of an increased overdraft, or otherwise—but it should be borne in mind that the interest charged, say, at the usual rate of 5 per cent., is calculated at *per annum*; taking the fact into account that the machinery cannot be obtained at a discount unless paid for within, say, three months, the accommodation is required for that period only—viz., three months. This means that the interest payable will be at the rate of 5 per cent. for three months—or at the rate of $1\frac{1}{4}$ per cent. per annum—on the amount loaned.

Working on the example shown above, there would be a charge against Revenue to the amount of £18, this being $1\frac{1}{4}$ per cent. on the amount loaned, viz., £1,440.

I now maintain that of the £160 allowed as discount £18 only of that sum ought to go to the credit of Revenue, in order to balance the item of Interest charged *per contra*; and the balance of £142 credited to the Machinery Account, in order to bring it to the net cost price, for reasons which I have before stated.

I must apologise for trespassing on your space to such a large extent, my letter being more lengthy than I at first anticipated, but I should like to add, in conclusion, that I have been an advocate of the above principle for a number of years, and have still to find the business man who, after going exhaustively into

the matter, would have the transactions stated differently in the accounts.

I am, dear Sir, yours faithfully,

July 31st 1906.

BENVENUTO.

[Our correspondent states his case well, but it amounts to nothing more than a demonstration of the inexpediency of adopting a course which we have already referred to as undesirable. If a company's memorandum entitles it to make profits by taking cash discounts, those cash discounts (if taken) must be legally receipts on Revenue Account.—*Ed. Acct.*]

Relative Value of B.Sc. and B.Com. Degrees.

(To the Editor of The Accountant.)

SIR,—There are probably several men who having reached the goal of their ambition find their ambition still insatiate, and, Napoleon-like, survey the surrounding ground for more victories to gain or more degrees to obtain. They recognise that they are not quite the finished article which five years ago they expected they would be, and whilst perhaps the thing most necessary is experience, there is still more knowledge to acquire. More is expected of an accountant (Chartered) than ability to draw up a Balance Sheet, and if he wishes to succeed he must look to it that he can fulfil what is expected of him. There are, I think, three "lists" in which the young and newly-created A.C.A. may enter: the laurels respectively are the Bachelor of Commerce degrees at Birmingham and Manchester, and the B.Sc. (in Economics, including Accountancy) at London University. The two former have been recommended by leading members of our Institute. The course of training is on similar lines in each case, and the question which presents itself is: Which will have the greatest value commercially, or which will be the best training for me as a Chartered Accountant? The chief drawback in the case of Birmingham is that the lectures are delivered during the day, which makes it almost impossible to do any regular professional work, whilst at Manchester the course is arranged so that evening students can qualify for the degree. The question one asks about the London B.Sc. (Econ.) is: Is a science degree likely to be regarded as favourably in the commercial world as a "commerce" degree? The requirements for the B.Sc. appear rather more stringent than for either of the other two, and its syllabus appears quite as commercial, which makes it seem a pity the degree is not designated "B.Com. (London)." The lectures of the London School of Economics are at such

hours as would not as a rule interfere with professional work. I should greatly value your opinion and advice on the value of the three degrees named, and others (if any).

Yours, &c.,

August 1st 1906.

FLEDGELING.

[We shall be glad to hear the views of other correspondents on this interesting subject. We may point out, however, that the curriculum of Birmingham and Manchester in each case involves local residence; whereas this is not essential for the London degree, although doubtless highly desirable.—*Ed. Acct.*]

Deeds of Assignment and Execution Creditors.

(To the Editor of The Accountant.)

SIR,—As your readers well know, it is somewhat dangerous to differ from Mr. S. S. Dawson, and when I penned my simple note I had no idea I should fall foul of so redoubtable an antagonist. He is quite right that I have not by me at present a report of the *Harland v. Binks* case, and I do just now envy him the possession of his well-stored library. The quotations he gives from that case and from *Adnitt v. Hands* would seem, at a first glance, to settle the point decisively.

In the absence of a full report I am at a disadvantage, but as I read Mr. Dawson's quotations, there is a substantial, if not an important, distinction between the two cases. *Harland v. Binks* decided that, under the circumstances of that case, it was necessary that the trustee should show the existence of a trust communicated to at least one creditor, and not dissented from by him. But in *Adnitt v. Hands* the Judges required proof, not of the existence of a trust, but of the irrevocability of the instrument, and said that a trust communicated to a creditor and not dissented from by him is merely one incident of irrevocability. I imagine that this case was decided before the 1887 Act (was it?), and I should like to know if Mr. Dawson would now contend that a *registered* deed is, under any circumstances, revocable. I take it that "revocation" refers to the power effectively exercisable by a debtor, and if the exercise of the power cannot be made effective except by an order of Court, the word "revocation" at once assumes a new meaning. There may be other incidents of irrevocability, including registration.

There is at least one recent decision that an assignment and a trust in a deed of arrangement may be separable, and that the assignment may be good whilst

the trust is inoperative. Mr. Dawson will hardly contend that where an assignment is completed, revocation is equivalent to nullifying. Otherwise, why does he invoke the statute of Eliz., cap. 5, to set aside an assignment where the trust is inoperative? Whilst I still doubt if to-day the two judgments quoted would receive the limited interpretation Mr. Dawson puts upon them, I quite agree that it is safer to have the assent of a creditor to complete the trust.

I take the following from Wetherfield's "Law of Private Arrangements," published about 1888:—

"If a short deed be drawn up by which the debtor assigns all his property to someone, as trustee for the benefit of creditors generally, that deed will protect the debtor's property against any subsequent execution. This effect results from the fact that the execution of the deed by the debtor operates, *while unrevoked*, to vest all his property in the trustee, and thus to pass it out of himself, with the consequence that it cannot be seized in satisfaction of his debts." *Glegg v. Rees*, L.R. 7 Ch. App. 71.

"A deed of assignment will serve its first purpose of protecting the debtor's property, although it be subsequently set aside as an act of bankruptcy, which it is, or although it be afterwards revoked by the debtor himself on the ground that it was merely a voluntary assignment made for his own benefit, and which created no trust for the benefit of his creditors, and so was not binding upon himself after revocation."

"This point, as to revocation, is of practical importance, because it may, and often does, happen that a debtor who is desirous of stopping an execution, hastily signs a deed of assignment with that view, and then, at a subsequent meeting, wishes to make an arrangement of either composition or insolvency. *In such a case, if the deed has not been communicated to the creditors, and has only been executed by the debtor and his trustee, and used to defeat an execution*, it can then be quietly revoked and cancelled by the debtor, and an entirely new deed substituted."

Yours obediently,
DAVID P. DAVIES.

31st July 1906.

Check Figures.

(To the Editor of The Accountant.)

SIR,—Referring to Mr. Frings' letter in your issue of 28th ult. I am perfectly conversant with his system.

Probably in stating that a third addition is necessary he has overlooked the value of an up and down cast.

I may have been wrong in stating that the check-figure was entered first in the Day Book, &c., had the statement applied to his system, but it did not. By entering the check-figure on the original slip, or Day

Book, however, I could save the Ledger clerk a considerable amount of the time occupied under Mr. Frings' method, but this would probably not be consistent with the latter's desire for the secrecy of his system; the check of the posting of the accurate original amount would, I think, also be more readily assured.

A check-figure does not prevent fraud, it may prevent clerical errors, but I have met cases where the check-figure had failed to locate errors, rare coincidences certainly, but, although agreeing in the aggregate, both the amount and the check-figure were wrong.

I shall be delighted to see Mr. Frings as he suggests, as he must be able to give some interesting information.

I believe some check-figure experts do not impress upon the people to whom they try to introduce the check-figure that accountants are anything more than a glorified check-figure themselves; but, of course, Mr. Frings fully appreciates that a C.A. is more interested in legal aspect, principle, and commercial economy than clerical errors.

Yours faithfully,

2nd August 1906.

H. T. L.

Parliamentary Companies and their Capital Accounts.

(To the Editor of The Accountant.)

SIR,—A limited company with which I am connected had on its incorporation a capital of £10,000.

Shortly after its incorporation the company applied for and obtained a provisional order wherein the nominal capital of the proprietors was stated as £15,000.

The Registrar of Joint Stock Companies immediately applied for and was paid duty on the extra £5,000.

The point now arises: In the "Statement of Share Capital" (A) what should the amount of the "Total amount authorised" be stated at, £10,000 or £15,000?

It seems to me that the amount authorised by the provisional order overrides the provisions of the memorandum, and that the amount should be stated at £15,000, yet the directors, secretary, and solicitors think that £10,000 is the correct figure.

I should be glad of your early reply in the columns of *The Accountant*, and beg to remain,

Yours truly,

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Company Liquidation.*(To the Editor of The Accountant.)*

SIR,—At the end of the first year of the voluntary liquidation of a company, I made the usual return of receipts and payments to the Registrar, made up to July 1906, the last receipt being one for £135, received on June 27th, and the balance in hand being £85.

The Board of Trade thereupon sent me a notice to pay in the balance of £85 to the Companies Liquidation Account, in spite of the fact that Section 15 (3) of the Companies (Winding-up) Act of 1890 says: "If it appears from any such statement or otherwise that any liquidator of a company has in his hands or under his control any money representing unclaimed or undistributed assets of the company which have remained unclaimed or undistributed for six months after the date of their receipt, the liquidator shall forthwith pay the same to the Companies Liquidation Account at the Bank of England"; and they justify their request by saying that the amount in question represents the minimum balance under the liquidator's control for six months immediately preceding the date to which the statement of account is brought down, and is therefore payable into the Companies Liquidation Account in pursuance of Section 15 of the Companies (Winding-up) Act, 1890, and Rule 174 (2) of the Companies (Winding-up) Rules 1903.

It appears to me that they are not entitled to ask for any money to be paid in until the expiration of six months from 27th June 1906, but the Board of Trade say that the amount is arrived at as follows:—

Balance in January 1906	£688	0	0
Payments since	£809	0	0
Less Receipts	206	0	0
Minimum balance continuously in hand for six months ..	£85	0	0

I should feel obliged if some of your readers who are experienced in company liquidation will inform me whether they consider the claim of the Board of Trade is justified, or is one that is usually made and complied with.

Yours faithfully,

TUNISIAN.

August 8th 1906.

Personal.

MESSRS. PARKINSON, MATHER & Co., Chartered Accountants, 8 King Street, Manchester, announce that they have recently taken into partnership Mr. JOSEPH BELL, A.C.A.,

and Mr. H. C. HOBBS, A.C.A., both of whom served articles in their office, and have been for many years members of their staff. Mr. CHAS. E. MATHER, having accepted a position with a firm in New York, will be available as their agent for American business.

MR. WILLIAM ROSE, Chartered Accountant, announces that he has removed to St. Nicholas' Chambers, Amen Corner, Newcastle-upon-Tyne.

MESSRS. MATHER, ROBERTSON & HILL, Chartered Accountants, 22 Gt. Winchester Street, London, E.C., announce that the following changes have been made in their partnership arrangements. Their senior partner, Mr. MATHER, has retired from the London business, and will devote his full attention to the Manchester firm (PARKINSON, MATHER & Co.). Mr. ROBERTSON, though retaining a partnership interest in the Manchester firm, becomes the senior partner in the London firm, which will be conducted as ROBERTSON, HILL & Co. They will also act as London agents of the Manchester firm.

Review.

Guide to the Formation, Registration, and Management of Companies Registered under the Companies Acts, 1862 to 1900.

By H. V. BAINES, Solicitor.

London, 1906: Pearse, Morrison & Son, 66 Leadenhall Street, E.C. Price 2s. 6d.

This Guide is in the form of a chart, showing practically at a glance the effect of the leading provisions in connection with the Companies Acts, framed more especially from the point of view of the promoter and director, but not without interest to the auditor and liquidator. The subject-matter is dealt with under the headings of Prospectus, Memorandum of Association, Articles of Association, Registration and Incorporation, Appointment and Qualification of Director, Allotment, Commencement of Business, Statutory and General Meetings, Mortgages and Charges, Auditors, and Transfers, references being given under each of the numerous sub-headings. The only fault that we have to find with this Guide is its price, which seems excessive for the practical equivalent of six sheets of foolscap paper. If, however, it were to be issued mounted on cardboard, and varnished, it should command a ready sale as a convenient and concise index to the more material provisions of the whole of the Companies Acts.

Companies (Winding-up).

Fifteenth General Annual Report by the Board of Trade under Section 29 of the Companies (Winding-up) Act, 1890.

(Concluded from page 143.)

The Bazaar Supply Association, Lim. (Newcastle-on-Tyne).

This association affords an illustration of the ease with which limited companies are able to obtain credit, inquiries as to their stability being apparently seldom made by intending creditors. The association was formed by one Tempest in 1896, and carried on the business of 6½d. and 1d. bazaars. The share capital issued was £306, of which £153 is still uncalled and irrecoverable. Tempest, who was not a shareholder, treated the concern as his own business; no meetings were called, nor accounts prepared, the banking account was kept in the name of a clerk, and in fact the only pretence made of carrying on the business as a company was the filing of the statutory annual returns. The Official Receiver states that the slightest inquiry would have sufficed to put creditors on their guard. The assets will be insufficient to meet the claims of the preferential creditors, and unsecured creditors to the extent of £1,059 will suffer a total loss.

Insurance Companies.

Two companies calling themselves insurance companies have been wound up during the year. In neither case was there any adequate capital, and in each case the business of life assurance was expressly excluded from the powers of the company, the object of this exclusion being to avoid the statutory liability to deposit a sum of £20,000 with the Court as required by the Life Assurance Companies Acts of all companies doing life assurance business.

The Castle General Insurance Company, Lim. (High Court), was formed in 1898 with a nominal capital of £100,000 to carry on insurance business of all kinds excepting life. No business was done, nor were any shares subscribed until 1903, when the company amalgamated with the Citizens' General Insurance and Investment Company, Lim., a similar concern registered in that year with a nominal capital of £10,000. A total capital of £9,382 has been allotted, but of this £7,500 was issued as fully paid. The balance of £1,882 was subscribed for chiefly by persons with whom engagements were made to act as district managers, secretaries, agents, &c., of the company, and the sum of £1,039 received in respect of the shares formed the only cash capital. The total risks undertaken cannot be accurately ascertained, as no proper accounts were kept, but to the extent the books disclose its business the total risks probably exceeded £1,500,000. It is obvious that, with a cash capital of £1,039 the com-

pany was not in a position to properly undertake any insurance business whatever. It appears to have been its regular practice to dispute all claims that might arise, but owing to the imperfect records and scanty accounts it cannot be stated what the total claims amounted to. The company appointed numerous agents. A large proportion of its present liabilities are due abroad, whence its premium income was largely derived. Of the total premium income, returned at £7,310 17s. 6d., a German re-insurance company contributed £3,665 net, and is a creditor for £1,265 16s. 2d. The unsecured creditors in respect of insurance claims are returned at £1,742 10s. 10d., but it is known that such amount is far short of the actual liabilities. There are practically no realisable assets.

The Times Insurance Company, Lim. (High Court), was formed in 1902 to acquire the business of a concern called The London, Birmingham, and Manchester Insurance Company, Lim. All classes of insurance business were carried on with the exception of life business. The purchase-price, £5,100, was paid by the issue of fully-paid shares. A prospectus was issued privately, and altogether some 18,986 shares have been issued, on which only £3,053 has been paid. The Official Receiver reports that persons were accepted as shareholders without regard to their financial standing or responsibility, with the result that it is now found that the unpaid or uncalled capital will realise a comparatively small sum of money. The object of the directors was, apparently, to issue capital with the object of being able to show that the company had a large amount of uncalled capital and to thereby induce a belief in the stability of the concern among insurers.

The insolvency of the company is attributed by the directors and manager to want of cash to pay off claims amounting to £5,000 under policies of insurance. Notwithstanding that the company had available uncalled capital amounting to over £15,000, of which £5,750 was owing by the directors and manager, no call was made by the directors.

Winding-up of Companies not Registered under the Companies Acts.

The operation of the Winding-up Act of 1890 is not confined to companies registered under the Companies Acts; the Court has jurisdiction to wind up any company so far as assets belonging to the company in this country are concerned, however the company may be constituted, and wherever it may be registered.

During the past year the Storey Cotton Company, registered in New Jersey, U.S.A., has been ordered to be wound up, and among the other liquidations is The Reading Cattle Market Company, which was a company incorporated by special Act of Parliament.

The Storey Cotton Company (Liverpool Palatine) was

registered in New Jersey, U.S.A., with a capital of 100,000 dollars. Offices were opened in Liverpool, and business of an outside broker was carried on, the chief speculations being nominally cotton futures. The two persons who had acted as the representatives of the company in England left England for the United States on the failure of the company and have not returned. The Official Receiver has had great difficulty in obtaining any information. Depositors' claims amount to £102,384, and, although certain moneys lying in the banks at the date of the winding-up order have been earmarked to repay some of the depositors, the loss will probably amount to about £100,000.

The Reading Cattle Market Company (Reading) was a company incorporated by the Reading Cattle Market Act, 1850, and only came to an end by the sale of the undertaking to the Corporation of Reading, the Court being petitioned for a winding-up by the Court because the provisions of the Companies Acts as to voluntary winding-up are not applicable to a company incorporated by special Act of Parliament.

The Anglo-Egyptian Automatic Trading Company, Lim.

In this case a prosecution was instituted by the Director of Public Prosecutions against Stuart Dixon Ross and George Bertram Ross, his brother, for conspiracy, and for obtaining money by false pretences. George Bertram Ross was also prosecuted for filing a false return under the Companies Act, 1900.

Both defendants were convicted, and Stuart Dixon Ross was sentenced to eighteen months' hard labour and George Bertram Ross to twelve months' hard labour.

Closing of the Liquidation of the New English Bank of the River Plate, Lim.

During 1905 the liquidation of The New English Bank of the River Plate, Lim., has been concluded. The result of the liquidation has been very satisfactory, the total amount of the realisations being £1,086,864, or nearly £60,000 more than was estimated by the directors and officers of the bank. The Official Receiver reports that the chief causes of this result have been the improved conditions in the Argentine, the gradual fall in the gold premium during much of the period of the winding-up, and

the care shown by his agents in the Argentine and Buenos Aires in dealing with the assets. The claims of depositors have all been paid in full, and holders of deferred promissory notes to the amount of £946,882 have received dividends of 5s. 9½d. in the £.

Remuneration of Non-official Liquidators in a Winding-up by the Court.

Under the new Winding-up Rules made by the Lord Chancellor in 1903, it is provided that if the Board of Trade is of opinion that the remuneration of a liquidator, as fixed by the committee of inspection, is unnecessarily large, the Board of Trade may apply to the Court, and thereupon the Court shall fix the amount of the remuneration of the liquidator.

Since the passing of this rule, liquidators have from time to time been informed that the Board of Trade propose to apply to the Court in accordance with the rule to fix the amount of the remuneration. In each case, however, a voluntary reduction on the part of the liquidator has obviated the necessity for any reference to the Court.

Public Examinations.

Thirty-three persons were publicly examined during the past year, and the following table shows the figures for the past five years:—

Year	No. of Winding-up Orders	Examinations ordered to be held		
		Number of Companies in which Examination ordered	Number of Persons ordered to be Examined	Number of Persons actually Examined
1901	110	20	72	63
1902	112	10	22	15
1903	83	16	53	50
1904	98	7	27	25
1905	89	11	34	33

Statistics.

Tables of statistics are attached.

I am, Sir, your obedient Servant,
GEORGE STAPYLTON BARNES,
 Comptroller of the Companies
 Department.

Board of Trade,
 8 Delahay Street,
 Westminster, S.W.
 July 1906.

TABLE I.
 STATEMENT of the Number of Petitions presented for Winding-up Orders and of the Number of Winding-up Orders made.

Petitions											
	Out-standing at 31st December 1904	By Company	By Contribu-tories	By Creditors	By Creditors and Contribu-tories	Total	With-drawn by arrange-ment	Dis-missed	Orders for Winding-up by the Court	Subject to super-vision of the Court	Un-disposed of
High Court	12	4	16	134	3	169	20	67	56	13	13
Palatine Courts	2	1	—	3	—	6	—	—	5	—	1
County Courts	6	4	—	56	3	69	20	11	28	4	6
Total ..	20	9	16	193	6	244	40	78	89	17	20

TABLE II.

STATEMENT of ASSETS and LIABILITIES in Companies ordered to be wound up by the Court, as estimated in the Statements of the Companies' affairs submitted by the Directors or Officers.

(a) In the High Court.

	No. of Companies	Estimated Assets				Estimated Liabilities						
		Property Mortgaged otherwise than to Debenture holders		Other Assets	Total	Debentures	Other secured Creditors		Preferential, payable in full	Ordinary	Total	Capital not called up
		To fully secured Creditors	To partly secured Creditors				Fully secured	Partly secured				
Companies of which the Official Receiver is Liquidator	31	£ 416,695	£ 32,036	£ 208,515	£ 657,246	£ 106,608	£ 218,258	£ 54,901	£ 6,364	£ 132,038	£ 518,169	£ 1,950
Other Companies	20	160,505	8,798	111,628	280,931	76,745	26,272	111,042	4,034	277,707	495,800	10,709
Total	*51	577,200	40,834	320,143	938,177	183,353	244,530	165,943	10,398	409,745	1,013,969	12,659

* Excluding two cases in which no Statement of Affairs has been lodged, one case in which all proceedings have been stayed, and two cases in which the winding-up order has been rescinded.

(b) In the Palatine Courts.

	No. of Companies	Estimated Assets				Estimated Liabilities						
		Property Mortgaged otherwise than to Debenture holders		Other Assets	Total	Debentures	Other secured Creditors		Preferential, payable in full	Ordinary	Total	Capital not called up
		To fully secured Creditors	To partly secured Creditors				Fully secured	Partly secured				
Companies of which the Official Receiver is Liquidator	—	—	—	—	—	—	—	—	—	—	—	—
Other Companies	4	43,500	5,015	33,974	82,489	44,458	26,634	8,402	523	33,129	113,146	—
Total	*4	43,500	5,015	33,974	82,489	44,458	26,634	8,402	523	33,129	113,146	—

* Excluding one case in which no statement of affairs was lodged.

(c) In the County Courts.

	No. of Companies	Estimated Assets				Estimated Liabilities						
		Property Mortgaged otherwise than to Debenture-holders		Other Assets	Total	Debentures	Other secured Creditors		Preferential, payable in full	Ordinary	Total	Capital not called up
		To fully secured Creditors	To partly secured Creditors				Fully secured	Partly secured				
Companies of which the Official Receiver is Liquidator	16	£ 3,338	£ 320	£ 16,868	£ 20,526	£ 13,493	£ 2,899	£ 1,024	£ 582	£ 24,416	£ 42,414	£ 9,090
Other Companies	12	11,650	—	49,779	61,429	30,304	9,940	—	307	26,051	66,632	42
Total	28	14,988	320	66,647	81,955	43,797	12,839	1,024	889	50,497	109,046	9,132

(d) In the High Court, Palatine and County Courts.

	No. of Companies	Estimated Assets				Estimated Liabilities						Capital not called up
		Property Mortgaged otherwise than to Debenture-holders		Other Assets	Total	Debentures	Other secured Creditors		Preferential payable in full	Ordinary	Total	
		To fully secured Creditors	To partly secured Creditors				Fully secured	Partly secured				
		£	£	£	£	£	£	£	£	£	£	£
Companies of which the Official Receiver is Liquidator ..	*47	420,033	32,356	225,383	677,772	120,101	221,157	55,925	6,946	156,454	560,583	11,040
Other Companies ..	*36	215,655	13,813	195,381	424,849	151,507	62,846	119,444	4,864	336,917	675,578	10,751
Total	83	635,688	46,169	420,764	1,102,621	271,608	284,003	175,369	11,810	493,371	1,236,161	21,791

* See notes to (a) and (b).

TABLE III.

STATEMENT of Capital Allotted, Called, and Paid up in Companies ordered to be wound up by the Court.

	Number of Companies	Nominal Capital	Capital offered for subscription, including Vendors' Shares	Capital allotted, including Vendors' shares	Capital called up	Capital paid up										Capital called up but not paid	Capital not called up
						Founders' Shares		Preference Shares		Ordinary Shares		Total					
						Allotted to Vendors and others as fully or partly paid up	Allotted to the Public	Allotted to Vendors and others as fully or partly paid up	Allotted to the Public	Allotted to Vendors and others as fully or partly paid up	Allotted to the Public	Allotted to Vendors and others as fully or partly paid up	Allotted to the Public	Gross Total			
£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£		
High Court ..	*51	6,578,750	2,802,324	2,745,675	2,733,016	—	500	188,871	205,193	1,676,192	648,820	1,865,063	854,513	2,719,576	13,440	12,659	
Palatine Courts	*4	330,000	278,210	229,222	229,222	—	—	54,745	24,902	53,893	94,923	108,638	119,825	228,463	759	—	
County Courts	*28	129,100	73,196	68,013	58,881	—	—	7,949	1,362	32,998	16,265	40,947	17,627	58,574	307	9,132	
Total ..	83	7,037,850	3,153,730	3,042,910	3,021,119	—	500	251,565	231,457	1,763,083	760,008	2,014,648	991,965	3,006,613	14,506	21,791	

* See notes to Table II. (a) and (b).

TABLE IV.

STATEMENT showing the Loss to Unsecured Creditors and Contributories in Companies ordered to be wound up by the Court—(a) As estimated in the Statements of Affairs submitted by Directors or Officers, and (b) as estimated by the Liquidators in such cases.

(a) As estimated in Statements of Affairs					(b) As estimated by Liquidators				
	No. of Companies	Estimated Loss to Creditors	Estimated Loss to Contributories	Total Estimated Loss		No. of Companies	Estimated Loss to Creditors	Estimated Loss to Contributories	Total Estimated Loss
		£	£	£			£	£	£
High Court ..	*51	430,657	2,372,066	2,802,723	High Court ..	*51	1564,321	2,511,546	3,075,867
Other Courts ..	*32	88,276	263,793	352,069	Other Courts ..	*32	101,861	277,849	379,710
Total ..	83	518,933	2,635,859	3,154,792	Total ..	83	666,182	2,789,395	3,455,577

* See notes to Table II. (a) and (b).

† As the Court has not yet given its decision with regard to the admissibility of certain proofs, the liquidator of Nelson and Company, Limited, has been unable to estimate the loss to creditors in that case, and the figures of the Statement of Affairs have therefore been included.

TABLE V.

STATEMENT of the Number of Creditors and of their Proofs, and the Number of Contributories, and of the Creditors and Contributories present or represented at the Statutory Meetings in Companies ordered to be wound up by the Court.

	No. of Companies	Number of Creditors							Proofs of Creditors								Number of Contributories			
		Per Statement of Affairs						Who have Proved before First Meeting	Admitted for Voting Purposes		Present or Represented at Meeting						Total Number per Statement of Affairs	Present or Represented at Meeting		
		Debenture-holders	Secured and partly secured	Preferential	Unsecured	Total	Unsecured Creditors under £10				Personally		By Proxy					Personally	By Proxy	
													To Official Receiver		To others				To Official Receiver	To others
		No.	Amount	No.	Amount	No.	Amount		No.	Amount	No.	Amount	No.	Amount	Total Number per Statement of Affairs	No.		Amount			No.	Amount
								£	£	£	£	£	£							
High Court ..	*51	202	401	88	5,429	6,120	2,971	1,980	1,173	452,026	303	131,553	352	123,875	485	195,335	4,988	308	465	158
Palatine Courts	4	10	22	9	571	612	354	223	195	27,892	27	4,715	22	3,311	71	11,707	768	75	43	121
County Courts.	28	57	123	17	1,358	1,555	805	417	394	35,840	66	20,243	66	5,928	71	6,355	1,262	81	26	29
Total ..	*83	269	546	114	7,358	8,287	4,130	2,620	1,762	515,758	396	156,511	440	133,114	628	213,397	7,018	464	534	308

* See notes to Table II. (a) and (b).

TABLE VI.

STATEMENT of the Number of Public Examinations ordered to be held, and the Number of Persons ordered to be examined, under Section 8 of the Companies (Winding-up) Act, 1890, Number of Special Managers appointed, and Number of Cases in which Costs have been allowed for preparing Statement of Affairs.

		Public Examinations							No. of Special Managers appointed in Companies ordered to be wound up during 1905	No. of Cases in which Costs have been allowed for preparing Statement of Affairs
		Examinations ordered to be held during 1905	No. of Persons examined during 1905							
			No. of Companies in which Orders made	No. of Persons ordered to be examined	Promoters	Directors	Officers	Other			Total
High Court	.. ..	6	23	4	14	2	2	22	7	26
County Courts	.. ..	5	11	2	6	3	—	11	2	17
Total	.. ..	11	34	6	20	5	2	33	9	43

TABLE VII.

STATEMENT showing the Number of Orders for Winding-up made in the High Court, the Palatine Court, and the several County Courts in England and Wales; the Number of Cases in which the Official Receiver has remained Liquidator, and the Number in which another Liquidator has been appointed.

Court	No. of Winding-up Orders	Liquidator	
		Official Receiver	Other Liquidator
High Court	*53	33	20
Palatine Court, County of Lancaster			
Liverpool District	1	—	1
Manchester District	1	—	1
Preston District	3	—	3
Total for Palatine Court	5	—	5
County Courts:—			
Ashion-under-Lyne	1	1	—
Aylesbury	1	—	1
Birmingham	3	1	2
Bradford	1	—	1
Brighton	1	1	—
Edmonton	1	1	—
Hanley	1	1	—
Huddersfield	1	1	—
Kingston-on-Hull	1	1	—
Leeds	1	1	—
Leicester	1	1	—
Lewes and Eastbourne	1	1	—
Liverpool	2	—	2
Manchester	5	3	2
Newcastle-on-Tyne	1	1	—
Poole	1	—	1
Preston	2	—	2
Reading	1	—	1
St. Albans	1	1	—
Stourbridge	1	1	—
Total for County Courts	28	16	12
Total for all Courts ..	86	49	37

* Excluding one case in which all proceedings have been stayed, and two cases in which the winding-up order has been rescinded.

TABLE VIII.

COMPANIES ordered to be wound up in the High Court, and County Courts, showing, as regards each Company, the Capital Allotted, Called, and Paid up, and the Assets and Liabilities, as estimated in the Statements of Affairs submitted by Directors or Officers.

Nominal capital	£ 7,037,850
Capital offered for subscription, including vendors' shares ..	3,153,730
Capital allotted, including vendors' shares	3,042,910
Capital called up	3,021,119
Capital paid up:	
Founders' shares:	
Allotted to the public	500
Preference shares:	
Allotted to vendors and others as fully or partly paid ..	251,565
Allotted to the public	231,457
Ordinary shares:	
Allotted to vendors and others as fully or partly paid ..	1,763,083
Allotted to the public	760,603
Total:	
Allotted to vendors and others as fully or partly paid ..	2,014,648
Allotted to the public	991,965
Gross total	3,006,613
Capital called up but not paid	14,506
Capital not called up	21,791

Estimated assets:

Property mortgaged otherwise than to debenture-holders:	
To fully secured creditors	635,689
To partly secured creditors	46,168
Other assets	420,764
Total	1,102,621
Estimated liabilities:	
Debentures	271,608
Other secured creditors:	
Fully secured	284,003
Partly secured	175,369
Preferential, payable in full	11,810
Ordinary	493,371
Total	1,236,161

TABLE IX.

TABLE showing the Results of Administration of 52 Companies wound up by Official Receivers under the Companies (Winding-up) Act, 1890.

Assets:	£
Gross receipts	22,497
Payments deducted:	
For carrying on business, &c.	378
To secured creditors	1,994
Gross assets	20,125
Deduct preferential payments and rent paid in full ..	76
Net available assets	20,049
Costs:	
Total	5,100
Debenture-holders	1,013
Unsecured creditors	14,247
Balance:	
In hand	29
Due to liquidator	340
Analysis of costs:	
Board of Trade and Court fees, including commission on realisation and distribution	2,279
Possession	1
Law costs of petition, including costs of parties	768
Law costs after winding-up order	811
Charges for preparing statement of affairs	265
Auctioneer, valuer, and other agents	671
Shorthand writer's charges	73
Incidental expenses, including advertisements	202
Assets and liabilities, as per statement of affairs:	
Assets	103,286
Liabilities ranking for dividend	234,381

TABLE X.

TABLE showing the Results of Administration of 39 Companies wound up by Non-Official Liquidators under the Companies (Winding-up) Act, 1890.

Assets:	£
Gross receipts	199,577
Payments deducted:	
For carrying on business, &c.	20,032
To secured creditors	8,506
Gross assets	171,039
Deduct preferential payments and rent paid in full ..	1,743
Net available assets	169,296
Costs:	
Total	37,273
Debenture-holders	1,338
Unsecured creditors	77,729
Return to contributories	53,332
Balance:	
In hand	46
Due to liquidator	422
Analysis of costs:	
Board of Trade and Court fees, including commission on realisation and distribution	4,115
Possession	83
Law costs of petition, including costs of parties	2,038
Law costs after winding-up order	14,567
Charges of special manager	150
Charges for preparing statement of affairs	226
Auctioneer, valuer, and other agents	501
Liquidator's remuneration	13,919
Shorthand writer's charges	132
Incidental expenses, including advertisements	1,542
Assets and liabilities as per statement of affairs:	
Assets	565,129
Liabilities ranking for dividend	306,925

ANNEX No. III.—Comparative Tables of Statistics as to Companies wound up for a series of Years.

COMPARATIVE TABLE I.

STATEMENT of the Number of New Companies Registered, and of Companies wound up since 1890, when the Companies (Winding-up) Act came into operation, showing the various methods of liquidation.

Year ended 31st December	New Companies Registered	Compulsory Liquidations	Supervision Liquidations	Voluntary Liquidations	Totals	Percentage of Compulsory to Total Liquidations
1891	2,447	119	32	722	873	14 per cent.
1892	2,371	117	53	921	1,091	11 "
1893	2,332	139	43	860	1,042	13 "
1894	2,670	114	51	833	998	11 "
1895	3,538	90	52	918	1,060	8 "
1896	4,291	86	24	1,152	1,262	7 "
1897	4,750	108	53	1,426	1,587	7 "
1898	4,651	125	66	1,554	1,743	7 "
1899	4,528	108	37	1,648	1,793	6 "
1900	4,509	117	38	1,649	1,804	6 "
1901	3,132	110	20	1,488	1,618	7 "
1902	3,596	112	16	1,501	1,629	7 "
1903	3,692	83	19	1,530	1,632	5 "
1904	3,478	98	18	1,484	1,600	6 "
1905	3,967	89	17	1,587	1,693	5 "
Total for 10 years ..	40,594	1,036	308	15,019	16,363	

COMPARATIVE TABLE II.

STATEMENT of the Amount of Capital involved in liquidations under the various methods since 1890, distinguishing capital subscribed by the public or otherwise in cash, and shares issued to vendors, &c., as fully paid up for a consideration other than cash.

Year	In Compulsory Cases		In Supervision Cases		In Voluntary Cases		Total		
	Public	Vendors	Public	Vendors	Public	Vendors	Public	Vendors	Total
1891	£ 2,432,423	£ 3,291,264	No information		No information		Information incomplete		
1892	3,069,328	1,320,768	1,485,239	2,984,956	22,663,653	10,956,136	27,218,220	15,261,860	42,480,080
1893	5,740,189	3,175,685	1,315,893	652,548	15,927,793	14,635,653	22,983,875	18,463,886	41,447,761
1894	2,811,573	1,559,127	1,232,052	226,413	20,761,676	16,015,926	24,805,301	17,801,466	42,606,767
1895	552,439	1,942,601	950,218	372,939	17,465,908	12,485,166	18,968,615	14,800,706	33,769,321
1896	291,589	1,295,364	204,240	388,680	23,806,032	20,508,541	24,301,861	22,192,585	46,494,446
1897	658,488	2,940,306	839,639	1,112,953	25,249,657	22,746,635	26,747,784	26,799,894	53,547,678
1898	679,400	2,269,539	1,354,331	1,210,950	28,637,600	32,551,038	30,671,331	36,031,527	66,702,858
1899	548,495	2,393,088	881,558	670,418	31,974,963	40,459,304	33,405,016	43,522,810	76,927,826
1900	1,152,241	1,756,230	683,355	657,635	29,059,567	38,192,314	30,895,163	40,606,179	71,501,342
1901	2,735,707	5,375,733	270,276	534,074	25,066,470	29,401,150	28,072,453	35,310,957	63,383,410
1902	619,381	1,936,186	492,134	404,951	28,811,840	32,005,962	29,923,355	34,347,099	64,270,454
1903	1,022,658	1,206,362	269,612	183,781	25,876,135	38,085,155	27,168,405	39,475,298	66,643,703
1904	503,418	2,662,572	321,993	631,459	21,423,924	29,300,110	22,249,335	32,594,141	54,843,476
1905	991,965	2,014,648	625,359	281,940	23,445,636	22,735,721	25,062,960	25,032,509	50,095,469
Total for 10 yrs.	9,203,342	23,850,028	5,942,497	6,076,841	263,351,824	305,985,930	278,497,663	335,912,799	614,410,462

COMPARATIVE TABLE III.

STATEMENT of Assets and Liabilities, as estimated in the Statements of Affairs submitted by the Directors or Officers, &c., of Companies ordered to be wound up by the Court during the years 1896 to 1905.

Totals for all Courts.

Year	No. of Companies	Estimated Assets				Estimated Liabilities						
		Property Mortgaged otherwise than to Debenture-holders		Other Assets	Total	Debentures	Other secured Creditors		Preferential, payable in full	Ordinary	Total	Capital not called up
		To fully secured Creditors	To partly secured Creditors				Fully secured	Partly secured				
1896	81	£ 63,639	£ 32,320	£ 525,407	£ 621,366	£ 406,666	£ 275,475	£ 84,902	£ 5,011	£ 361,985	£ 1,134,039	£ 183,922
1897	99	253,380	15,353	718,493	987,226	261,337	233,566	20,299	8,016	313,055	836,273	53,245
1898	121	327,509	211,378	805,081	1,343,968	401,323	144,396	196,325	15,911	472,366	1,230,321	164,701
1899	102	714,687	33,695	534,298	1,282,680	303,826	410,022	103,550	8,698	579,404	1,205,500	3,619
1900	100	300,120	83,961	888,790	1,252,880	487,298	197,563	193,349	14,940	620,368	1,423,518	116,572
1901	104	3,929,075	33,291	5,067,721	9,030,087	265,449	2,030,526	51,771	19,105	2,362,698	4,720,549	33,360
1902	104	296,688	33,337	966,450	1,298,475	694,694	159,722	73,121	12,240	813,167	1,752,944	47,134
1903	79	271,205	27,752	600,549	899,596	329,403	142,230	66,368	19,729	430,071	1,987,801	48,185
1904	94	504,597	82,417	595,105	1,182,119	468,040	327,759	141,301	17,617	369,708	1,324,485	16,771
1905	83	635,688	46,169	420,764	1,102,621	271,608	284,003	175,369	11,810	493,371	1,256,161	21,791

(b) COMPANIES INVOLVING PUBLIC OBLIGATIONS EXCEEDING £10,000, BUT NOT EXCEEDING £100,000.

Year	No. of Companies	Vendors' Shares	Capital paid-up by the Public	Liabilities			Total Obligations to Public exclusive of Vendors' Shares
				Debentures	Fully or partly secured	Unsecured	
		£	£	£	£	£	£
1891	46	1,661,106	624,188	246,606	350,761	350,022	947,479
1892	47	840,677	442,644	462,135	220,661	384,219	1,507,015
1893	48	1,546,750	580,915	351,385	176,622	430,068	1,538,990
1894	40	495,074	593,812	344,084	160,310	373,740	1,381,946
1895	28	1,328,463	244,985	287,196	216,240	317,667	1,066,088
1896	25	703,898	189,924	150,710	198,306	258,028	796,968
1897	35	2,003,769	568,278	207,907	74,142	193,724	1,044,051
1898	44	1,409,273	489,031	329,963	151,932	270,099	1,241,025
1899	36	1,335,733	309,123	259,052	257,139	248,459	1,073,773
1900	48	1,332,977	661,181	333,224	179,345	505,036	1,078,786
1901	33	1,989,951	612,705	163,761	143,680	155,705	1,075,851
1902	42	1,033,114	347,730	296,852	82,592	503,246	1,230,420
1903	29	1,606,539	233,048	245,652	175,940	197,037	851,677
1904	35	1,150,582	276,752	297,946	399,411	283,020	1,248,129
1905	27	1,369,540	283,457	147,879	134,473	231,887	797,696
Increase in 1905 as compared with 1904 {	—	218,958	6,705	—	—	—	—
Decrease {	8	—	—	150,067	255,938	51,133	450,413

(c) COMPANIES INVOLVING PUBLIC OBLIGATIONS UNDER £10,000.

Year	No. of Companies	Vendors' Shares	Capital paid-up by the Public	Liabilities			Total Obligations to Public exclusive of Vendors' Shares
				Debentures	Fully or partly secured	Unsecured	
		£	£	£	£	£	£
1891	57	816,749	97,220	80,165	118,820	81,136	220,121
1892	57	403,091	86,959	28,715	19,519	89,929	138,163
1893	65	497,252	81,126	22,755	9,879	83,877	116,511
1894	60	232,220	58,937	26,760	13,813	85,858	126,431
1895	55	453,378	57,079	53,601	19,383	75,334	148,317
1896	53	410,700	59,235	43,203	15,823	94,524	153,550
1897	63	922,437	89,984	99,979	11,783	109,083	150,845
1898	74	689,425	87,842	50,443	10,438	137,810	198,691
1899	63	699,586	94,477	29,674	24,440	95,413	149,527
1900	57	246,587	71,462	21,881	24,369	101,621	147,871
1901	63	257,706	82,030	25,589	29,157	77,599	132,345
1902	59	733,672	64,119	31,604	20,778	103,299	155,681
1903	47	319,023	71,666	28,557	12,157	87,834	128,548
1904	57	531,990	66,592	41,338	12,017	93,548	146,903
1905	50	411,785	39,823	44,674	9,143	106,250	160,367
Increase in 1905 as compared with 1904 {	—	—	—	3,636	—	12,702	13,464
Decrease {	7	180,805	26,769	—	2,874	—	13,305

The Report concludes with the Solicitor's Appendix, giving statistics as to the number of actions taken.

failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, August 3rd, was 163, viz :— New Bankruptcy Proceedings published in the *London Gazette*, 31; Deeds of Arrangement registered, 72. The respective numbers in the corresponding week of last year were: Bankruptcies, 97; Deeds of Arrangement, 88—total, 185; being a decrease of 22. The total number of commercial

failures recorded during the 31 weeks of the present year is 5,102; the total number recorded in the corresponding 31 weeks of last year was 5,419, showing a decrease of 317.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, August 3rd, was 146. The number in the corresponding week of last year was 162, showing a decrease of 16. The total number filed during the 31 weeks of the present year is 4,657; the total number filed in the corresponding 31 weeks of last year was 5,096, showing a decrease of 439.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, August 3rd, amounted to £962,451, by way of addition to £2,472,734, previously issued by the same companies. The amount registered in the corresponding week of last year was £516,124, showing an increase of £446,327. The total amount registered during the 31 weeks of the present year was £52,195,453 (in addition to the issues in previous years by the same companies), as compared with £47,847,384 for the corresponding 31 weeks in 1905, showing an increase of £4,348,069.

The Profession in Scotland.

Personal.

Messrs. Wight & Wight, Chartered Accountants, of 150 Hope Street, Glasgow, announce that they have assumed as partners Mr. James Myles, Junr., C.A., and Mr. H. Hamilton Fleming, C.A. The style of the firm will be Wight, Wight, Myles & Fleming.

The Profession in Ireland.

Institute of Chartered Accountants in Ireland.

THE quarterly meeting of the Council was held at the offices of the Institute, 4 College Green, Mr. Robert Stokes (President) in the chair. There were also present Messrs. M. Shaw, W. Fitzsimons, R. Walsh, J. H. Woodworth, N. G. Peterson, J. M'Cullough, M. Crowley, J. E. Magill, J. M. Kean, J. Harold Pim, and C. G. Mitchell (Assistant Secretary).

The result of the June Examinations was announced as follows. Passed:—

Preliminary—J. Davison, Belfast; D. Robertson, Belfast.

Intermediate—G. A. Andrews, Belfast; N. Beattie, Belfast; D. O. Connor, Dublin; R. S. Stokes, Dublin; G. Vaughan, Belfast.

Final—F. G. Walsh, Belfast.

Two candidates in the Preliminary and two in the Final Examination failed to come up to the pass standard.

The following were elected on the various Committees, viz.:—

General Investigation Committee—Robert Stokes (President), Martin Shaw, Michael Crowley, J. H. Woodworth, N. G. Peterson, J. M. Kean, William Fitzsimons, E. McCarthy.

Examination Committee—Robert Stokes (President), Martin Shaw, Robert Walsh, J. H. Woodworth, Michael

Crowley, William Fitzsimons, J. M. Kean, N. G. Peterson.

Assistant Examiner—Rev. Isaac Warren, M.A., T.C.D.

Parliamentary Committee—Robert Stokes (President), Martin Shaw, Michael Crowley, J. M. Kean, E. McCarthy, J. H. Woodworth, J. M'Cullough.

Mr. F. G. Walsh (Belfast) was elected an Associate in Practice.

The question of forming a local Society amongst the Belfast members was considered, and approved of.

The usual quarterly business having been transacted, the meeting terminated.

Bank Rate of Discount.

Sept. 28th 1905	..	..	..	..	..	4%
April 5th 1906	..	..	..	..	..	3½%
May 4th ..	..	..	..	..	..	4%
June 21st ..	..	..	..	..	..	3½%

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LAW REPORTS.

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Leading Articles.

Company Law Amendment.—II.

WITH regard to foreign companies, the Committee does not consider that it would be advantageous to adopt provisions requiring foreign companies carrying on business here to register, or to comply with any of the requirements of the 1900 Act as to prospectuses, or to make deposits here with a view to securing British creditors. This recommendation is apparently unanimous, and is upon that account all the more surprising, more especially as not a single argument is put forward in its favour.

Various amendments are suggested in Section 10 of the 1900 Act as to the contents of prospectuses, most of which are of a formal—and, indeed, necessary—character; and it was suggested that, in order to avoid unduly discouraging persons from becoming directors, the Court should be given power to relieve any

director or promoter for breach of any duty imposed upon him by the Companies Acts, provided that the breach had been occasioned by honest oversight, inadvertence, or error of judgment. It is further recommended that, in an action for negligence or breach of trust against a director, the Court shall have power to relieve him from his liability on such terms as it may consider proper where it is satisfied that he acted honestly and reasonably. We do not quite understand *why* it should be a perfect defence to an action for negligence, breach of trust, or deceit, for the director to be able to plead that he was ignorant or stupid; and we are accordingly glad to observe the note appended to the Report by Mr. EDGAR SPEYER, who holds that "some comment upon this paragraph is necessary; otherwise the public may conclude that our Committee is satisfied with the manner in which directors generally avoid their duties," which conclusion he for one is anxious to avoid. The question as to how far a person who undertakes duties that he is incompetent to perform may be freed from liability in respect of his failure, must in all cases be a somewhat difficult one; but, for our own part, we do not think that a sufficiently good case has been made out to entitle directors to exceptional treatment. With a view, however, to avoiding the possible injustice of a director becoming liable to pay very heavy sums, owing to some technical failure of duty which in point of fact had caused no damage, we quite agree that power might be given to the Court, in cases where a director is found liable under such circumstances, to assess the damages at such a figure as may be just and reasonable in view of all the facts.

We would point out, however, that if such

special facilities by way of "limited liability" are to be granted to company directors they ought *à fortiori* to be granted to company auditors. Nevertheless, it will be a bad day for the commerce of this country when laws are enacted so protecting incompetent and ignorant persons that they are encouraged to undertake duties which they are by nature, or by training, quite incompetent to perform; but, on the other hand, it would be almost equally impolitic to render the discharge of difficult duties so onerous, and so hazardous, that reasonably prudent and substantial persons would decline to undertake them at all for that very reason. While entirely agreeing with Mr. SPEYER that, speaking generally, directors have not in the past very satisfactorily discharged the whole of their duties, there have yet been cases of hardship, in which extreme and unreasonable penalties have been inflicted for purely technical faults. Legislation enabling the Court to grant relief in such cases could work no injustice, and might easily prove beneficial, if wisely restricted; but, if any measure of this kind is to be enacted, it is only fair that it should be applied, not merely to directors and promoters, but also to all "officers" of the company, who are equally liable under Section 10 of the Act of 1890.

Concerning underwriting and discount, the Committee, while indisposed to recommend the authorisation of initial issues of shares at a discount, comes to the conclusion that it might in many cases be desirable—subject, of course, to full disclosure of the facts—to sanction *subsequent* issues of shares at a discount. It wisely points out that, so far as the company is concerned, this is very much the same thing as allowing shares to be issued at par, subject to a heavy underwriting commission—and, of

the two, both simpler and more straightforward. There can be little doubt that in many cases where a company has not proved quite successful, but presents reasonable prospects of eventual success, it would be in a far better position to obtain the further capital necessary to it, upon satisfactory terms, by issuing shares at a fair discount, rather than by issuing them under complicated conditions as to preferential dividend and the like, seeing that such conditions, when once made, must in the nature of things be perpetual. If a company's shares will only fetch (say) ten shillings in the open market, there seems no sense in prohibiting the company from issuing new shares at less than twenty shillings; and although the difficulty may, perhaps, be got over by issuing them at twenty shillings, subject to an underwriting commission of ten shillings, this is a clear evasion which does not increase anyone's respect for the law, while at the same time it facilitates the foisting of these shares on unsuspecting buyers at a price greatly in excess of their intrinsic value.

Another useful recommendation of the Committee under this heading is one to re-establish the right of vendors to pay away part of their purchase consideration in underwriting commissions, provided there is authority for, and full disclosure of, the payment. In some cases this is certainly the most convenient course to pursue, more especially, for instance, in reconstructions. We observe that the Committee assumes that the payment of an underwriting commission in the case of a reconstruction is at the present time illegal. As we have stated before, we are by no means convinced upon this point, but there can be no question as to the desirability of its being cleared up beyond all doubt; and with the suggested introduction

of a preliminary statement, or prospectus, even in cases where no offer is made to the public to subscribe for shares, no reason remains for withholding from these companies the right to pay a commission, inasmuch as the filing of that statement will naturally ensure all necessary publicity.

Bankers and Credit.

AT a time like the present, when everyone is seeking to find an explanation for the unsatisfactorily low price of high-class securities in the shortcomings of everyone but themselves—as witness the recent discussions as to Gold Reserves, One Pound Bank Notes, and the like—it is not without interest to note that, upon the rare occasions when one is able to get a little insight into the manner in which banking business is transacted in the provinces, one is filled with surprise that far more serious consequences do not attend upon the utter want of ordinary business precautions that is but too frequently observed.

As a case in point we will take first of all the case of a man who was recently tried and convicted at the Bolton Quarter Sessions, and sentenced to three months' imprisonment, without hard labour, for unlawfully obtaining credit under false pretences from one of the leading joint-stock banks. The evidence in this case, as reported in *The Bolton Evening News*, shows that the prisoner, who at the time of his conviction was stated to be only 22 years of age, having previously opened (and presumably closed) two banking accounts, on the 30th October last opened yet a third, and, upon no better evidence than his own unsupported statements, was able to secure an overdraft, which by the time of his

bankruptcy, on the 8th January following, had amounted to £50 odd, and which was entirely unsecured. The prisoner, who gave evidence in his own defence, claimed that the statement as to his position, upon which the prosecution relied, was a copy of the statement which he had given to his former bankers, and was a correct record of his position at that date. We are not, however, concerned with the degree of culpability of the prisoner, which has already been dealt with, but merely with the degree of credibility of the bank manager. Taking the most favourable view of the position, from his point of view it seems clear that an account was opened, without adequate security for an overdraft, with a person who, although he had but quite recently attained his majority, had previously had relations with two other banks. The allegation is that the representations as to his position were wholly false, and, as no one is charged with conspiracy, it seems clear that whatever statements may have been made to the bank were uncorroborated. That being so, we can only repeat that, if it is the general custom for provincial banks to open an overdrawn account under such circumstances, our surprise is not that they are occasionally deceived, but that their losses do not invariably far outweigh the profits they are able to make upon business with reasonably honest persons.

The case outlined above is, however, by no means unique. We call to mind another case, in which a provincial bank lent what, having regard to the magnitude of the branch, must be regarded as a substantial sum to a limited company, upon practically nothing more substantial than the assertion of that company's solicitor that the title deeds of

its properties were in his possession, and that he was negotiating, and had practically completed, the arrangements for an issue of debentures for an amount exceeding that which the bank was invited to advance *pro tem.* Before, however, the debenture issue was carried through, the solicitor had been arrested upon charges of misappropriation, and was eventually convicted thereon; and although the bank was finally able to secure possession of the title deeds, they proved a quite inadequate security for the sum advanced. Nor was the bank to which we have just referred the only victim of this particular solicitor's dishonesty. We are informed that, only the day before his arrest, he visited another bank in the same locality, and obtained, without security, an advance of some £200 on his mere *ipsi dixit* that he required it to pay estate duty on behalf of a client—a representation which subsequently proved to be quite unfounded.

One can, of course, quite understand that it is practically impossible to conduct a banking business in the provinces without reposing a certain amount of trust in statements deliberately put forward by persons who are locally regarded as being sound; but the cases to which we have drawn attention should, we think, suffice to show the danger of conducting a banking business, even with local solicitors of repute, upon what can only be regarded as essentially unbusinesslike lines, and the case to which we referred first shows that these methods are not exclusively reserved for members of the legal profession, who, in the nature of things, might well be accorded exceptional facilities.

We cannot help thinking that, if the whole of the truth were known, the bad debts

incurred by every bank in each year through undue credulity would be found to represent an unduly large proportion to its gross profits; and, if the impression that we have formed should prove to be well founded, there can be little doubt that it affords an argument—and a very powerful argument—against the principle of Secret Reserves, which may be said to lie at the very root of all systems of bank accounting. The recommendation of the Committee which has recently reported on Company Law, to the effect that it is desirable for the protection of unsecured creditors that the Balance Sheets of all companies should be filed with the Registrar of Joint Stock Companies, will undoubtedly have the effect of making the system of Secret Reserves increasingly popular. Before that recommendation is adopted it will, we think, be well worth while to consider very carefully whether a system which conceals careless management from the knowledge of shareholders is worth adopting, merely because by no other means will it be practicable to keep from creditors information which in the interests of shareholders it is undesirable should be imparted to them. Another point of considerable interest in this connection is as to whether a Balance Sheet which is to be available for the inspection of creditors ought not, in all cases, to afford absolutely *every* information which can by any possibility be of the least interest to shareholders.

Legislation for Accountants in New Zealand.

IN another column of the present issue we reproduce the text of a Bill for the regulation of the accountancy profession in New Zealand, which was read a first time in the

House of Representatives during the past session, but did not reach a second reading. We understand that this Bill will again come before the House at the earliest possible date, and that there is a possibility of it being submitted in an altered form as a Government Bill.

The general scope of the measure, it will be gathered, is to provide that, after a certain specified date, no one who is not registered under the Act shall perform for hire any accountancy work, and the only qualification is in the case of those working for a salary, and placing the whole of their time during business hours at the disposal of their employers. The measure is thus far more courageous than any Bill which has been put forward in the British Parliament, in that it aims at effectively controlling *all* professional accountancy of any kind whatsoever, instead of leaving the pettifogging accountant untouched, and professing to deal only with the more important branches of the calling. Such provisions will, one would imagine, considerably increase the difficulty of the passage of the Bill through Parliament; but, if passed, an Act framed upon these lines would stand a far better chance of being effective than one which merely aimed at dealing with a section of accountancy work—not merely because it would achieve the intended purpose of killing the unqualified accountant altogether, but also because, by deliberately covering the whole field, the difficult question of evasions and their possible legality is got rid of at a single stroke of the pen.

On the other hand, the initial provisions, as to who shall be entitled to registration, are so wide that it would necessarily be a considerable time before any practical benefit could be

expected as a result of such a measure; and in the meanwhile doubtless serious abuses would occur from time to time which could be only remedied by the expulsion of registered members—a procedure which, while doubtless under those circumstances extremely necessary, would not improbably tend to give registration, as such, a bad name, and perhaps lead to its rescission at an early date, before a really fair chance had been given to see what benefits might eventually be expected to accrue out of the system. We appreciate, of course, the practical impossibility of creating a professional monopoly without at the same time throwing open the gates of admission so wide as to include in the first instance practically all who may desire the benefits of that monopoly, whether qualified or unqualified. But it may be questioned whether, when this principle is carried out to so great an extent that its first effect is to label undesirable persons with an altogether misleading badge of competence, it might not well be regarded by disinterested persons as actively harmful rather than beneficial, and it would at least be an open question whether the eventual good would not be too dearly bought at the price of much present harm.

It seems to us that, to give this Bill a reasonable chance of success, both in Parliament and afterwards, it would be necessary to amend it to the extent of requiring all applicants for membership to execute a declaration that it was their intention to practise professionally as public accountants; at the same time clearly specifying those kindred or associated callings which public accountants were allowed to follow, and providing that the carrying on of any other occupation by a registered accountant should be

regarded as unprofessional conduct, and therefore as a ground for expulsion. In that way the most objectionable of a herd of triflers would be got rid of at the very outset; and, inasmuch as it would be necessary for all who claimed the privileges of registration to substantially rely upon their ability as accountants for a livelihood, a reasonable degree of efficiency might be insisted upon by the most efficacious of all means, namely, self-interest.

No one would voluntarily give up his chance of making an income by other callings for the sake of becoming a registered accountant, unless he considered that his abilities in that direction were sufficiently marked to enable him to make a living thereat. In that way, for practical purposes, we think a better working standard of efficiency would be secured (at all events in the first instance) than by any examination test that would then be practicable. The work of subsequently building up and elevating the profession might then safely be proceeded with, and doubtless a satisfactory superstructure could be reared.

Weekly Notes.

A Water Rate Problem. A question of some importance to landlords and tenants, as to their respective liabilities for water rate, which was recently decided by Mr. Justice Buckley, merits a passing reference in these columns. In this case the Prudential Assurance Company were the owners of a block of buildings which they had leased to another company, who had leased a part to Messrs. Salmon & Gluckstein, Lim., who let one of the shops and a basement to another firm. The Water Board levied their rate on the first lessees, who attempted to recover it from Messrs. Salmon & Gluckstein, who in turn attempted to obtain from their lessees. The question before the Court was whether Messrs. Salmon & Gluckstein had an claim against their lessees for any part of the rate. His Lordship said that, were he not bound by the

authorities, he would hold that a water rate was not a rate payable in respect of demised premises; but the Divisional Court had held that it *was* a rate within the meaning of the covenant to pay rates and taxes, and he was bound by that decision. While admitting that there may be, and often is, a hardship in tenants of business premises being compelled to pay rates for water which they do not want, we must confess that we do not see anything unreasonable in a contract between landlord and tenant, under which the latter takes over liabilities which would otherwise fall upon the former. The presumption is that these liabilities are taken into account when the rent is fixed, or when the premium (if any) is paid. It is, of course, absurd that anyone should be required to pay ridiculous prices for the few gallons of water that are used on business premises from day to day; but this anomaly would not be remedied by making the landlord liable, notwithstanding the fact that he had let the premises to a tenant on the express understanding that the latter should pay all rates.

The Movement against Municipal Extravagance. We understand from *The Daily Express* that a movement is on foot to bring an organised attack against the London County Council on the ground of the wanton recklessness of its financial policy, and that during the next few weeks meetings will be held continuously in the open air, many of them under the patronage of the borough councils. The whole subject is, of course, a highly technical one, and the movement will therefore be foredoomed to failure unless its organisers are securing proper professional assistance. They would appear, however, to be upon the right lines, for we observe that one of the principal subjects to be tackled is the method of bookkeeping and audit now in vogue. A glaring instance, showing the inadequacy of the existing system, which, we understand, will be mentioned, is the case of the Wood Green Urban District Council, where, last June, after the Local Government Board audit had taken place, a deficit of £5,000 was discovered by a professional accountant who had been called in to investigate the accounts. It is to be pointed out that the Local Government Board auditors are usually barristers, rarely accountants, that all they have to do is to see vouchers for the accounts placed before them; whereas, if any efficient audit is to be performed, it could be best secured by the appointment of Chartered Accountants to conduct independent investigations. To the case of the Wood Green

Urban District Council just cited may be added that of the Poplar guardians. It is unnecessary for us to refer in detail to the inquiry recently concluded by an Inspector of the Local Government Board, inasmuch as it has doubtless been closely followed by our readers. We may mention, however, that whatever the inquiry may lead to, it can scarcely result in a surcharge of any kind, inasmuch as the accounts have already been passed by the Local Government Board auditor. One would have thought that any efficient system of audit—even if it were confined to the vouching of payments, and left entirely untouched the question of whether all available receipts were actually accounted for—would at least have inquired into some of those matters which proved the subject of the recent lengthy inquiry into alleged irregularities.

Official Audits Again. We have frequently had occasion to draw attention to the inefficiency of the official audit as a safeguard against fraud, and we have also, of course, from time to time shown that the average lay audit is at least equally ineffective. The recent failure of the United Service Share Purchase Society, Lim., appears to show that a lay audit conducted by officials is possessed of the disadvantages of both methods. At the meetings of creditors and contributories held in the liquidation of this company on the 26th ult. the Assistant Official Receiver stated that a hurried investigation showed that there was a deficiency of £14,000, and that at the residence of the late secretary (who was, until recently, a first-class clerk earning £400 a year in a Government office) documents had been found showing that securities put down at £8,000 were non-existent or had vanished. So, apparently, has the late secretary, who is supposed at the present time to be in Texas. It was stated that "the directors and auditors placed such faith in the late secretary that he was left to carry on the business in his own way, they taking his word for the amounts borrowed, securities held, and the loans outstanding." This is, of course, the old story, and appears to have been attended by the one result that can be reasonably expected by business men in the present state of human imperfection. Had the members of this Society had the business acumen to spend a few guineas per annum on a proper professional audit they might have saved themselves a loss of upwards of £30,000 in all, although *per contra* they would not have received the £5,000 in dividends which have been paid out of capital during the past few years.

Accountants' Examinations in Scotland. *The Financial News* in a recent issue states that one of the questions set at the Intermediate Examination by the Scottish Chartered Accountants' General Examining Board last June was as follows:—"The rates of a railway train and a coach are as 7 to 2. The former can travel 42 miles an hour. How long would it take the latter to go 342 miles?" This is the sort of question, adds our contemporary, that every candidate for the profession of accountancy ought to be able to do mentally and instantaneously, without working it out on paper. Without subscribing to the doctrine apparently put forward here, that every competent accountant ought to be a sort of lightning calculator, we are free to admit that we are quite at a loss to understand why it should be thought necessary to include questions of elementary arithmetic at a Chartered Accountants' Intermediate Examination. The candidates' time might surely be better occupied upon more intellectual or more practical matters; and if there has been an effective Preliminary Examination, the examiners ought at least to be entitled to assume a knowledge of simple division upon the part of those who come before them.

Foreign Companies in France. The President of the Council of Ministers in France, conjointly with the Minister of Finance, has deposited the project of the proposed new law for the control of foreign limited companies operating in France, which will be found of considerable interest to all British companies conducting operations in that country, and also to those whose concern is rather to inquire into such matters with a view to seeing to what extent it may be desirable to improve the law regulating the right of foreign companies to carry on business in this country. The French proposal requires all foreign companies before establishing branches in France to declare at the Tribunal of Commerce the situation of their registered offices, and to lodge, among other papers, their memorandum and articles of association. Every document, invoice, advertisement, &c., issued by such companies must have printed thereon the nationality and constitution of the company, and description of the capital, and the amount thereof that remains to be paid up; and in the event of non-compliance with these requirements, such companies' operations in France will be considered null and void. That is to say, it will be impossible for a company so in default to bring or defend any actions at law—

indeed, for all intents and purposes, it will be outlawed. All issues in France of shares or debentures in a foreign company must, in all documents relating thereto, clearly indicate the name, nationality, address, objects, amount and description of capital, remuneration of managers, &c., of the company, and state where and when general meetings will be called, and the date of the *Journal Officiel* in which its articles of association have been published. Non-compliance with these regulations will mean heavy fines. The law, if passed in its present form, would apply to all existing as well as to future companies, and the former will be required to conform to its provisions within three months of its promulgation. In the absence of fuller information it is, of course, impossible to express an opinion upon the merits of this scheme in detail; there can, however, be little doubt as to the desirability of all countries satisfying themselves that foreign companies carrying on business in their midst are supervised at least as carefully and exhaustively as those which are native to the soil. In no country other than this would the Legislature so stultify itself as to enact the most rigorous restrictions for the registration of companies and the issue by them of capital and debentures, while at the same time leaving foreign companies, wheresoever registered, to issue their capital broadcast in this country without the least supervision or check, and without even having paid those fees which are exacted upon registration.

The De Beers Case Again. Just before Parliament adjourned, a question was put to the Chancellor of the Exchequer as to whether, in connection with the decision of the House of Lords in this case, he had considered the probable loss of business to this country which the decision would entail, and whether he proposed to take any steps in the matter. Mr. Asquith is reported to have replied to the effect that the decision laid down no new principle, being in accordance with the current of authority for the last thirty years. He saw no reason to think that the judgment would produce injurious effects, and he did not propose to take any steps in the matter.

Debentures and Registration. The delayed decision of Mr. Justice Buckley in the *Cardiff Workmen's Cottage Company's* case makes very interesting reading indeed. It will doubtless be remembered that the

point was as to an extension of time for the registration of debentures. In the course of his judgment the Judge said that, when making an order for the extension of time in the case of *Joplin's Brewery Company* in 1902, he had added the words, "But that this order be without prejudice to the rights of the parties acquired prior to the time that such debentures shall be actually registered." In the case of *Johnson & Co., Lim.*, the Court of Appeal had determined what words of qualification were necessary for the purpose of giving effect to the contractual rights contained in the debentures which ought to rank *pari passu*, but the question as to whether unsecured creditors ought to be protected had been left open. He had now to decide whether he should insert words such as the following:—"Provided always that the security conferred by the debentures for which registration of time is extended shall not, as against any creditor of the company who shall have become a creditor of the company after the date when the debentures ought to have been registered, and before the time when they shall be actually registered, have any greater validity than if this order had not been made." The difficulty was that, if the company now cancelled these unregistered debentures, they could issue to their late holders new debentures and register them within twenty-one days. These debentures would be valid, subject to attack on the familiar ground of fraudulent preference. He inclined to the opinion that when a case of sufficient magnitude arose it might be well to give notice to unsecured creditors of substantial amount, so that they might have an opportunity of being heard. Under the circumstances he thought he might, without inserting any of the words suggested for the protection of the unsecured creditors, make an order in the terms of that in *Johnson & Co.*, and he accordingly made an order extending the time.

The Irish Language.

The movement in favour of reviving the ancient Erse language is doubtless very patriotic, but even the savants cannot agree among themselves as to its claims to be considered a living tongue—for ourselves, with the aid of an apostrophe, it would seem appropriate to the dead rather than the quick—and, therefore, ordinary human beings may be pardoned a little scepticism. A gentleman from Wexford recently applied to the National Bank of Ireland to be allowed to sign his cheques in Irish, and this application was followed by two of the

Gaelic Societies in a similar strain. The directors, with that urbanity so characteristic of their genus, pointed out that if the cheques were signed in English as well as Irish all would be well; but there was evidently too much of the hated Saxon about this for the Wexford gentleman. It was also suggested that if the customer would relieve the bank from all responsibility in connection with his account he might sign his cheques in Choctaw if he chose. This proposal was not adopted, and the account was closed. The average bank clerk doubtless feels becomingly grateful!

Should Trustees under Deeds of Assignment Collect Debts?

The danger of transactions with a trustee under an unmatured deed of assignment is fairly well-known, but in *Davis v. Petrie* a sharp reminder was served up. Bankruptcy had followed on the deed in question, and a sum of £21 had been paid by a debtor of the assignor to the trustee under the deed, who had in turn handed over the balance in his hands to the trustee in bankruptcy. It was held that unless the defendant could actually trace the moneys paid by her to the trustee under the deed into the hands of the trustee in the bankruptcy she must pay the full amount over again, not being entitled to assume that any part of the balance handed over by one trustee to the other represented even a rateable proportion of the amount originally paid.

What is "Loan Capital?"

An important question as to the meaning of the words "issue any loan capital," contained in Section 8 of the Finance Act, 1899, was raised before Mr. Justice Walton in the case of *the Attorney-General v. The London and India Docks Company*. As our readers will remember, the section in question requires a statement to be delivered to the Commissioners of Inland Revenue stating the amount of any "loan capital" proposed to be issued, and the facts in the present instance briefly summarised were:—Owing to an amalgamation the London and India Docks Company came into being in 1901, and under the Act authorising the amalgamation the existing debenture stock, £3,032,377, was divided into two classes—A and B. Under the terms of the conversion each holder of debenture stock became entitled, *inter alia*, to a further nominal amount of B debenture stock fully paid-up, equal to one-third of his holding. The nominal amount of the B debenture stock required to

supply the 33 per cent. additional stock was £1,010,792, and the company had delivered to the Commissioners of Inland Revenue a statement of that sum, and paid the necessary duty. For the Attorney-General it was contended that the company in their statement should have included the £3,032,377 debenture stock, and paid duty on it. In the course of his judgment Mr. Justice Walton said that his task would have been much easier if the framers of the Act, instead of using the slang of the city, had set out the intention of Parliament in plain English. He was of opinion that the words "issue of any loan capital" meant the issue of some kind of security for capital advanced to the company. Since different and new obligations were substituted for the old obligations he thought that in point of fact the old stock was extinguished just as if the original advance was paid off and remade on new terms. There would, therefore, be judgment for the Crown, with costs.

Somerset House and New Brooms. Following closely on the heels of recent improvements at Somerset House comes the current report that a new electric lift for books and papers, &c., is in course of construction, and that, pending the compilation of new indices, visitors to the Companies' Search Room will find that the present company indices have been mounted on reading desks, surmounted by a legibly-lettered guide board.

The Trade Disputes Bill. Although the proposals set out in this measure have received the assent of the House of Commons, opinions may yet be divided as to whether or not the sop to the agitators will result in the balance between Capital and Labour being held unevenly. Clause 2 of the Bill says, "It shall be lawful for one or more persons, acting on their own behalf, or on behalf of a trade union in contemplation or furtherance of a trade dispute, to attend peaceably and in a reasonable manner at or near a house or place where a person resides or works, or carries on business, or happens to be, if they so attend merely for the purpose of obtaining or communicating information, or of persuading any person to work or abstain from working." Picketing may therefore be carried on before an actual strike is declared, and most persons of average intelligence will readily perceive what is most likely to happen. As to the "peaceably," &c., the peaceful workman out on strike and the reasonably minded agitator exist merely in the mind of our only novel, The protection afforded to the body

corporate against the acts of its units may be defended politically, but cannot be championed from any other standpoint. We wonder what the economists have to say about the tendency to peaceably persuade a person to abstain from working!

A Question of Interpretation. The full report of *In re Meux's Brewery, Ltd., and the same v. Lord Ailesbury*, is much too long to appear in these columns, and although we refer briefly to the point involved, our readers will do well to peruse the details of the case. The question was whether the company had power to mortgage or sell a certain property without the consent of the debenture-holders. Clause 1 of the deed between the company and the trustees for the debenture-holders taken by itself would create a floating and not a fixed charge, but it was claimed that the words in Clause 2 to the effect that, notwithstanding the charge before-mentioned, the company reserved the power to enjoy the property charged, and to carry on therein the business authorised by the memorandum of the company till the power of entry with sale should be exercised, converted an otherwise floating charge into a fixed charge. Mr. Justice Neville decided that the words were an amplification of an existing power, and he thought, therefore, that the company were entitled to mortgage the property for the general purposes of the business of the company. The arguments put forward by counsel were very ingenious, and the full report will well repay perusal.

The Postmaster-General's Report. It is physically impossible to convey in the short space of a few paragraphs all the many interesting facts and figures that are included in Mr. Sydney Buxton's recently published report as Postmaster-General, and we must therefore confine ourselves to a few. The number of postal packets delivered in the United Kingdom during the year 1905-6 is estimated as per the following table:—

	Number	Increase per cent.	Average No. for each person
Letters	2,707,200,000	3'1	62'5
Post cards	800,300,000	9'0	18'5
* Halfpenny packets ..	891,600,000	5'7	20'6
Newspapers	185,400,000	3'3	4'3
† Parcels	101,700,000	4'6	2'3
Total	4,686,200,000	4'6	108'2

* Including also foreign printed papers, &c., over two ozs. in weight, prepaid at the halfpenny rate.

† The figures as regards parcels include also parcels sent from this country abroad.

With regard to the Savings Bank the average amount to the credit of each depositor has again declined, being 1s. 4d. less than on the 31st December 1904. The margin between income and expenditure, although lower than in 1903 and 1904, is nevertheless £88,094, but there is a welcome increase of £1,700,000 in the deposits. The following table shows the total number of accounts open on 31st December last, their geographical distribution, together with other particulars of interest :—

—	Number of depositors	Total amount to credit of depositors	Average amount to credit of each depositor	Proportion of depositors to population
		£	£ s d	
Eng. and Wales	9,027,112	135,668,450	15 0 7	1 in 3·8
Scotland	451,627	6,205,339	13 14 10	1 in 10·4
Ireland	484,310	10,237,351	21 2 9	1 in 9·1
United Kingdom	9,963,049	152,111,140	15 5 4	1 in 4·3

The figures relating to the telephone and telegraph services are unusually clear and instructive, but it is not easy to give a *précis* of them in an intelligible form.

Current Law.

BANKRUPTCIES AND INSOLVENCIES.

Ponsford, Baker & Co. v. Union of London and Smith's Bank, Lim. C.A.

Decision of Buckley, J. (34 *Acct. L.R.* 77), reversed. A bank holding securities of a customer who has committed an act of bankruptcy cannot safely hand over such securities upon payment of the amount due until the statutory period of three months has expired.—(*Times*, Aug. 14.)

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

Age and Work.

(To the Editor of *The Accountant*.)

SIR,—I am addressing this communication to your paper, as the recognised organ of the community of accountants, in the assurance that it will interest your readers.

Being myself a sufferer from the singular delusion prevalent in the public mind that a man is too old for work when he has reached a certain age, I feel impelled

to inquire how that nebulous but general idea can possibly apply to a profession in which the ripe experience of age should presumably be a distinct advantage.

The most convenient way of treating the matter is that of narrative and comment.

At the age of 60, after having been associated with one firm for twenty years, I find myself, on the retirement of my principal, vainly seeking an engagement elsewhere because I am supposed to be too old.

Now, what is the fact? I have been all my business life a strenuous worker, and still (when I get something to do in a casual way) adopt my regular plan of five hours at a sitting, with every moment full and with an absorbing interest in the gradually unfolding results of my labour. At 16 I taught myself analysis in the dissecting department of a large warehouse, and cast the voluminous columns of its Day Books, and at 60 I can prove a set of books, get out Trading Account and Balance Sheet, or cast one hundred columns at a sitting with a celerity and accuracy equal to that of any young man half my age, and with the certain satisfaction that the results are right.

Many of the accountants with whom I have had a previous personal acquaintance, or been introduced to by letters of recommendation, quite admit my contention that a man who has acquired the habit of continuous mental work, with a natural liking for it, is as good for the business of figures at 60 as he was at 30, and indeed better, because not so susceptible to the hundred-and-one distractions of the younger man; but in their cases I have found they are surrounded by a staff of young clerks for the routine part, and themselves do the supervising and finishing work.

Still, I am sure there are some old-established firms or persons with a good audit practice to whom a man of my long and general experience would be worth thrice the remuneration they would give, and I shall be glad if you can oblige me by publishing this letter, as it may incidentally lead to a communication from one such to

Yours gratefully,

July 28th 1906.

VERAX.

Deeds of Assignment and Execution Creditors.

(To the Editor of *The Accountant*.)

SIR,—Mr. David P. Davies is certainly complimentary in his reference to me. May I reciprocate and say that what he was pleased to call a simple note was taken up by me at great length simply because his name is not altogether disassociated with difficult points in bankruptcy.

I do not propose to write at length upon the cases of *Harland v. Binks* and *Adnitt v. Hands*, but I must say that I cannot accept the distinctions between the two cases which Mr. Davies attempts to draw. In my opinion, for what it is worth, having the full reports before me, the later case followed the earlier one precisely, and the point which is generally quoted as having been proved in the later case was not what it was necessary should be shown, but rather upon whom the onus fell to show irrevocability on the grounds that there was a trust in existence. Mr. Davies inquires whether the case of *Adnitt v. Hands* was decided before the 1887 Act. As a matter of fact, it was decided in 1887, and the Deeds of Arrangement Act of 1887 came into force on the 1st January following. Mr. Davies inquires whether I would contend that a registered deed is, under any circumstances, revocable, and he apparently gives his own view on this matter by saying there may be other incidents of revocability, and he apparently suggests registration as one of them. I submit, with all deference, that registration of a deed of arrangement under the Deeds of Arrangement Act of 1887 does not make such deed irrevocable, and does not of itself place the property under the deed in any better position as regards an execution creditor.

My point is this:—Section 17 of the Act of 1887 says, "Nothing contained in this Act . . . shall give 'validity to any deed or instrument which by law is . . . void or voidable.'" Surely if a deed is registered without the assent of a single creditor—in fact, registered despite the protests of the few creditors who are aware of its existence—that deed does not create a trust, and is in no better position in this respect after registration, particularly having regard to Section 17. What does Mr. Davies mean when he says, "If the 'exercise of the power of revocation cannot be made 'effective except by an order of the Court, the word 'revocation' at once assumes a new meaning'?" I do not follow him here.

Yours faithfully,

SIDNEY S. DAWSON.

Liverpool, 13th August 1906.

Relative Value of B.Sc. and B.Com. Degrees.

(To the Editor of The Accountant.)

SIR,—I have read "Fledgeling's" letter in your issue of 11th inst. with some interest.

I know next to nothing of the requirements of Birmingham and Manchester.

With regard to the B.Sc. (Economics) London, and

the London School of Economics, to which particular reference is made by your correspondent, may I be permitted to say that the degree is a thoroughly practical commercial one, the subjects required therefor comprising Accountancy, Mathematics, Historical Geography, Economic Theory, Statistics, Currency, and so forth (I have not the calendar before me).

Moreover, for persons (male or female) engaged in professional or commercial work, special arrangements are made, and in fact the whole of the lectures are practically duplicated to meet the needs of both day and evening students. Those who so desire may take their course between the hours of 4 and 7 p.m., whilst others circumstanced differently may attend a complete series of evening lectures beginning at 6 o'clock.

May I add that the social life is of the pleasantest, the Common Room amenities, the "Union," and many other features being of the utmost value to serious students. In the Common Room congregate, between lectures and for afternoon tea, lecturers well-known far beyond the narrow circles of University life, and students who have, in many cases, already shed lustre upon London and other Universities.

In addition, for those with other inclinations, I would mention that there is no sport which has not its ardent advocates in the school, and many a "Circle" exists to meet the physical requirements of the students. The Dramatic Art is studied by occasional organised pilgrimages in quest of G. B. S. and other productive genius, and gastronomic functions are not so few as they might be, nor are they the less pleasant for that fact.

I represent neither the School itself nor any faction thereof, but simply detail my own experiences as a student, in the belief that the School has attractions for, and may be useful to, accountants.

Professor Dicksee lectures on Accountancy.

Yours faithfully,

T. HALLETT FRY.

Temple, E.C., August 13th 1906.

[We shall be glad to receive further correspondence on this subject.—Ed. Acct.]

Treatment of Coal Royalties as Income in Trust Accounts.

(To the Editor of The Accountant.)

SIR,—I have lately completed the preparation of the accounts of a complicated trust, and one of the points involved is the treatment of coal royalties; the whole

of these have been credited to income, though the beneficiaries (tenants-for-life) have been legally warned that it is most improper.

It seems to me that the distribution of the "coal royalties" as income is legally correct, after allowance for impeachment for waste, and is supported by the *Lee v Neuchâtel* case; but Dr. Ranking states: "Where, however, property of a wasting or fluctuating nature (such as leaseholds, or shares in a company) is settled by will, by way of trusts for sale, if there be no provision as to intermediate income, the life-tenant is only entitled to so much as would have been produced if the property had been realised one year after death and invested in Consols, the balance of income being treated as capital."

Your reply by a foot-note in *The Accountant* of March 25th 1905 to a similar case does not clear the ground.

In my case the will states the beneficiaries in the real estate are "tenants-for-life" only.

Another point. An annuitant under the will, having such annuity secured by deed on real estate: is the said annuity primarily chargeable against real or personal estate income?

Thanking you or any reader who could enlighten me upon above points.

Yours, &c.,

CHARTERED ACCOUNTANT'S CLERK.

August 15th 1906.

Points in Insolvency Law.

(To the Editor of *The Accountant*.)

SIR,—I am obliged to your correspondents and your legal contributor for their answers to my letter of July 9th.

With regard to the practice under Section 5 of the Debtors Act and Section 103 (5) of the Bankruptcy Act, I cannot gather from the replies whether a creditor for £10 can, by obtaining judgment, applying for committal and paying the prescribed fee, get the Court to make a receiving order as a matter of right, even if a large majority of the other creditors have accepted the arrangements under a deed. Will the Court in such a case consider the views of the other creditors?

Yours, &c.,

July 25th 1906.

LANCASHIRE.

The Institute of Chartered Accountants in England and Wales.

THE following is a list of applicants admitted at the Council Meeting, held on the 1st August 1906, who completed their membership before the 16th inst.:—

Former Members re-admitted to Membership.

As Fellow.

Sharp, Luke Jesson (Luke J. Sharp, Son & Sparshott), 71 Colmore Row, Birmingham.

As Associates in Practice.

Baylis, Thomas James (Baylis & Baylis), 16 High Street, Rotherham.

Casson, Robert, County Chambers, Ulverston.

Associates elected Fellows.

Barber, Harold Priestman (Jarvis Barber & Sons), Alliance Chambers, George Street, Sheffield.

Runtz, Sidney Westwood (Jackson, Pixley, Browning, Husey & Co.), 58 Coleman Street, E.C.

Admitted as Associates in Practice.

Jackson, Joseph Clough, 26 & 27 Bond Street, Leeds.

Kirby, John Louis, "Laurel Bank," Ben Rhydding.

Admitted as Associates not in Practice.

Airs, Arthur Lewis, clerk to Baker Bros. & Halford, 44 Abington Street, Northampton.

Beeby, Charles Ryland, clerk to Agar, Bates & Co., 110 Edmund Street, Birmingham.

Beer, William James, clerk to Black, Geoghegan & Till, 8 Old Jewry, E.C.

Blackburn, Harold Hartley, clerk to H. W. & J. Blackburn, Commercial Bank Buildings, Bradford.

Bond, Thomas James, clerk to Chatteris, Nichols & Co., 1 Queen Victoria Street, E.C.

Brent, James Boyd, clerk to William B. Keen & Co., 3 Church Court, Old Jewry, E.C.

Claridge, Charles Edward, clerk to W. Claridge, 47 Market Street, Bradford.

Clay, George Reginald, clerk to Leigh Elkington & Co., 29 Newhall Street, Birmingham.

Dadley, Maurice George, Avondale Road, Earlsdon, Coventry.

Darley, Arthur Pim, clerk to Carnaby Harrower, Barham & Co., College Hill Chambers, E.C.

Dixon, Frank Eastwood, clerk to R. R. Preston & Co., 2 New Street, Leicester.

Duncan, Douglas Roy, clerk to Wyatt Williams & Co., 14 Ironmonger Lane, E.C.

Eccleshall, John, clerk to Mather & Kay, 10 Acresfield, Bolton.

Edge, Cyril Tarratt, M.A., The Glebe House, Guildford, Surrey.

Faulks, Albert Victor, clerk to Evans & Fripp, 14 Finsbury Circus, E.C.

Ford, Allen Edward, clerk to Bournier, Bullock & Co., Albion Street, Hanley.

Gaskin, John, "Kynance," Private Road, Nottingham.

Goodenough, Harry, clerk to Calder Marshall, Son & Ibbotson, 90 Cannon Street, E.C.

Goodwin, John Palmer Willis, clerk to James Fraser & Sons, 31 Copthall Avenue, E.C.

Haythornthwaite, Charles Walter, clerk to Thomas Waterworth & Co., 16 Richmond Terrace, Blackburn.

Horsley, Harold Richard, B.A., clerk to Leake & Co., 25 Abchurch Lane, E.C.

Hughes, Mervyn Alfred, clerk to W. A. Browne & Co., Winchester House, Old Broad Street, E.C.

Ismay, Ernest Wilfrid, clerk to Holmes, Spence & Co., 10 Royal Arcade, Newcastle-upon-Tyne.

Johnson, James Harold, clerk to Goodricke, Cotman & Co., Moorgate Station Chambers, E.C.

Jones, Stanley, clerk to Fox, Sissons & Co., 9 Austin Friars, E.C.

Lumsden, Stuart, c/o John Swire & Sons, 8 Billiter Square, E.C.

Merryweather, James White, clerk to George Franklin & Co., Imperial Chambers, Norfolk Row, Sheffield.

Miller, Thomas Frame, clerk to Wilde & Ferguson-Davie, 61½ Fore Street, E.C.

Norton, Gilbert Paul, B.A., clerk to Armitage & Norton, Station Street Buildings, Huddersfield.

Ogle, Homfray, clerk to Newman M. Ogle, Grace & Co., Worcester House, Walbrook, E.C.

Osborne, Norton Wallis, clerk to Wright & Wiltshire, 19 St. Dunstan's Hill, Great Tower Street, E.C.

Patterson, William, clerk to T. C. Martin, E. Milburn House, Newcastle-upon-Tyne.

Payton, Henry George, clerk to J. Gordon, 19 Bond Street, Leeds.

Peat, William Henry, B.A., clerk to W. B. Peat & Co., 11 Ironmonger Lane, E.C.

Penny, Charles Herbert, clerk to Carnaby Harrower, Barham & Co., College Hill Chambers, E.C.

Porter, Thomas, clerk to Annan, Kirby, Dexter & Co., 21 Ironmonger Lane, E.C.

Reddall, Leonard Arthur, clerk to Sands & Flinders, 12 Victoria Street, Nottingham.

Robson, Thomas, clerk to Chalmers, Wade & Co., 5 Fenwick Street, Liverpool.

Roe, Herbert Ernest, clerk to C. J. Collier, 14 St. James' Street, Sheffield.

Sharp, Harold Arthur, clerk to Sharp, Parsons & Co., 120 Colmore Row, Birmingham.

Shaw, Frank, clerk to Armitage & Norton, Market Place, Dewsbury.

Smeeton, William George, clerk to Price, Waterhouse & Co., 3 Frederick's Place, Old Jewry, E.C.

Stacey, Gerald Arthur, clerk to Scarff & Co., 9, 10, & 11 Poultry, E.C.

Stead, Charles Frederic, clerk to Stead, Taylor & Stead, The Temple, Dale Street, Liverpool.

Streets, John Schofield, clerk to Carter & Co., 33 Waterloo Street, Birmingham.

Sultan, Wilfred, clerk to Fitzpatrick, Graham & Co., 147 Leadenhall Street, E.C.

Tanner, Walter Reginald, clerk to Lovelock & Lewes, 25 Mangoe Lane, Calcutta, India.

Thompson, Gerald Seymour, clerk to Woodthorpe, Bevan & Co., Leadenhall Buildings, E.C.

Whitworth, Charles Rupert, "The Limes," Marlborough Road, St. Albans.

Wilkinson, Edward Sheldon, clerk to Viney, Price & Goodyear, 99 Cheapside, E.C.

Wilkinson, Frederic Walter, clerk to J. Dix Lewis, Cæsar & Co., 85 Gresham Street, E.C.

Winn, John, clerk to J. A. Gardner & Co., 44 Dean Street, Newcastle-upon-Tyne.

Birmingham Chamber of Commerce (Incorporated).

Memorandum of Evidence to be submitted to the Bankruptcy Law Amendment Committee.

Appointment of Official Receivers.

THAT it appears to be inadvisable to appoint as Official Receivers men who may also be engaged in private professional practice, and that the law should therefore be amended so as to provide that the Board of Trade shall not appoint Official Receivers except to give their whole time to the duties and act entirely as officers of the Court. If some districts are insufficient to employ an official solely as an Official Receiver, adjoining districts could be absorbed.

Official Receivers should also be paid by salary, as in some cases, and not, as in others, by a commission upon the assets realised.

Acts of Bankruptcy.

That Section 4 (c) of the Bankruptcy Act, 1883, which reads as follows, "If in England or elsewhere he makes any conveyance or transfer of his property, or any part thereof, or creates any charge thereon," should have the words which follow deleted, "which would under this or any other Act be void as a fraudulent preference if he were adjudged bankrupt," so that where a debtor gives a bill of sale, or other charge (excluding mortgages on real or leasehold property), over his property it would be a sufficient act of bankruptcy upon which to file a petition.

That Section 4 (h) of the Bankruptcy Act, 1883, which provides that an act of bankruptcy is committed if a debtor gives notice to any of his creditors that he has suspended, or that he is about to suspend, payment of his debts, should be supplemented by the provision that an act of bankruptcy is also committed "if he has convened a meeting of his creditors, either by himself or through his solicitor, and submits a statement of his affairs," as at the present time notices convening meetings are sometimes worded so as not to convey notice of suspension of payment, when no doubt it is intended to include such a proceeding.

If at a meeting a debtor submits a statement of his affairs, power should be given to the creditors to apply for his adjudication as a bankrupt without the present delay of fourteen days.

A debtor commits an act of bankruptcy if execution against him has been levied by seizure of his goods under process in an action in any Court, or in any civil proceeding in the High Court, and the goods have been either sold or held by the sheriff for twenty-one days, but it would be advisable "if the period were reduced to five days, and the goods have been announced to be sold by the sheriff."

This would have the advantage of preventing a sale by auction, and consequently the expense would be saved, as where a sheriff holds the goods for five days he is entitled to announce a sale.

Section 103 (5) provides that "in lieu of committal of a judgment debtor the Court may, if it thinks fit, decline to commit, and in lieu thereof, with the consent of the judgment creditor, make a receiving order against the debtor." Instead of remaining in the discretion of the Judge, and only applicable to Courts having bankruptcy jurisdiction, it should be compulsory for a receiving order to be made where a debtor's liabilities exceed £50, in view of the tendency of County Court Judges to abolish committing debtors to prison in default of orders for payment for instalments. Several cases transpire where debtors dispose of their business to a nominee, leaving no remedy at present except the County Court procedure. The difficulty of obtaining an order, and commitment in the event of non-payment, leaves the creditor with practically no remedy for the recovery of his account.

Bankruptcy Petitions.

Section 7 (2) of the Act of 1883, which provides that before making a receiving order the Court shall require proof of the act of bankruptcy, should be amended so as to provide that proof be only required where the act of bankruptcy alleged in the petition is disputed. It should be sufficient proof of same if substantiated in an affidavit by the petitioning creditor or creditors, unless it is set out by the debtor in his defence that he disputes the act of bankruptcy. This would have the effect of lessening the costs of bankruptcy, which at the present time are so very excessive.

The section which provides that a creditor's petition shall not be withdrawn without the leave of the Court should be amended so as to provide that such leave shall only be granted if the Court is satisfied that the petitioning creditor has not received payment of the whole, or any portion of his debt, or entered into an arrangement to withdraw same for a consideration either by the debtor or third parties where a deed of assignment has been executed by the debtor, as it is contended that in some cases creditors file a petition and very often receive an advantage which is not shared by the creditors who have assented to the deed.

Proofs of Debt.

A simpler form of proof of debt should be issued to the creditors, and, instead of being sworn before the trustee or a commissioner for oaths, should be declared by the creditor himself, or, in case of a firm, by one of the partners. At the present time these proofs are usually made by a clerk, who has little or no knowledge of the debt which he or she swears is justly and truly owing, and a declaration would overcome this difficulty, as under the provisions of the

present Act it is a risky proceeding for a creditor to file a false claim.

Proxies.

Proxies used for meetings of creditors are only in exceptional cases correctly completed. A creditor should be entitled to give a general proxy to any other creditor whose claim amounts to not less than £20 in the same manner as he can give one at present to a manager or clerk in his regular employment. At present, where given a third party, the proxy has to set out the resolutions in anticipation which the proxy can vote for, and the proxy must be filled in by the creditor himself, or by a clerk in his regular employment, who has to complete a certificate at the foot of the proxy. It should be sufficient for a creditor to sign it in person, providing he declares he signed it after the body of the proxy was filled in.

Debts Provable in Bankruptcy.

At the present time the creditor is only entitled to prove for costs incurred by him before a receiving order where he has signed judgment, or is in a position to sign judgment at the date of the receiving order; consequently by this restriction a creditor who has incurred costs, and the time for judgment has not expired at the date of the receiving order, is not even entitled to prove for the costs and accept the dividend thereon.

This requires amending to enable a creditor who has instituted County Court proceedings, or issued a writ, at any time before a receiving order, to be entitled to prove upon the estate for the costs incurred, and accept dividend along with his debt.

Meetings of Creditors.

Meetings of creditors should follow as quickly as possible after a receiving order, so that the costs of holding possession by the Official Receiver, and the consequent depreciation of the assets, should be limited as far as possible. Instead of the present fourteen days (which is very often extended) the first meeting should take place within ten days of the receiving order.

To enable this to be carried out, the debtor should be required to supply within four days of the receiving order a list of his creditors, with their respective addresses, and the meeting could then be convened to be held after the lapse of a further period of six days, before which time the debtor should be required to file his statement of affairs. It is only in exceptional cases that this requirement could not be carried out. The statement could then be considered at the meeting, and copies afterwards furnished to the creditors, together with the Official Receiver's and trustee's report upon the same.

Only creditors for amounts of over £10 should be entitled to vote in the bankruptcy, as is the case in Irish matters, so that forms of proxy should only be issued to creditors above that amount. It is very rarely that creditors under £10 trouble to take any part in the meeting.

Compositions or Schemes in the Bankruptcy.

At present only in rare cases is any scheme of composition attempted to be carried through after bankruptcy proceedings have been instituted, owing to the formality and expenses attendant upon compositions in bankruptcy.

It should be sufficient where a debtor intends to make a proposal for composition in satisfaction of his debts that the Official Receiver should hold a meeting of *bond fide* creditors, and a copy of the proposals should be sent to them, and if at that meeting a majority in number representing three-fourths in value of the *bond fide* creditors over £10 resolve to accept the proposal, same should be duly accepted by the creditors, and be binding without the approval of the Court, providing such proposal provides reasonable security for a composition of not less than 10s. in the £.

This is suggested to simplify a satisfactory composition in bankruptcy without the delay attendant on a public examination, which delay and publicity at present prevent the satisfactory working of any composition scheme under the present Act.

Public Examinations—General.

To avoid the legal expenses attendant upon a public examination, and the very heavy shorthand writers' charges at present existing (which should under any circumstances be reduced), the public examination of a debtor should not necessarily take place where his affairs appear to be straightforward, and a full disclosure has been made, but that it should take place upon an application from the Official Receiver or trustee of an estate, or a *bond fide* trade creditor for £50 or over. This would enable Official Receivers and trustees to examine a bankrupt upon oath where they were not satisfied with the conduct of the bankrupt or his dealing with the estate, and the Registrars should have power to commit a bankrupt for contempt in cases where a bankrupt trifles with the Court, as has transpired recently in cases of examinations of bankrupt solicitors before the Birmingham Court.

Trustees' Remuneration.

This Act requires amendment to the extent that the commission payable to trustees shall be a fixed amount on the assets realised as on the dividend distributed. In view of the fact that Official Receivers', architects', auctioneers', and valuers' charges are passed by a fixed percentage, it would be the better course for a percentage to be fixed for trustees' remuneration, and the following payment is suggested. Under £1,000, 5 per cent. on the net assets realised and 5 per cent. upon the dividend distributed. Where the net assets realised amount to more than £1,000 the remuneration should be fixed by the committee of inspection. At the present time the question of remuneration of trustees seems to depend upon the friendly attitude or otherwise of the committee of inspection, and a great

difference in charges is continually observed in the realisation of estates, some trustees being paid double, one receiving a very high percentage for a small amount of work, and others a small percentage for a large amount of work.

Trustees' travelling and hotel expenses should be limited by a scale of so much per day—trustees, first-class railway fare; and clerks, third-class fares and expenses.

Fees.

The costs of filing a petition in bankruptcy at the present time are excessive, and where a debtor has divested himself of his estate it is very rarely that creditors are disposed to contribute the amount required for the purpose of filing a petition in bankruptcy. As the law stands at present, the debtor without assets stands a better chance of getting off without investigation owing to the expense.

Where the assets amount to less than £1,000 the stamp of £5 on the petition (which under the old Act was only £1) is too high, and should be reduced to £1, while the creditor should not be called upon to pay an additional £5 as deposit to the Official Receiver in case the assets are insufficient to cover the Official Receiver's expenses.

The charges made by Official Receivers of one shilling for the notice of a first or other meeting of creditors should not apply to creditors under £10. Neither one shilling for each creditor for the use of the room to whom notice has been given of such meeting. A small estate may have a large number of small creditors, while a large one may only have a few, and the fees in the former class work out on this basis at the heavier rate. Neither of these fees should be paid where creditors' claims are under £10.

Official Receivers' expenses are too heavy as at present existing, and by the time a trustee is appointed a large amount as a rule stands to the debit of the estate.

Property Passing to a Trustee.

Very often when a trustee is appointed it is ascertained that a large portion of the assets are claimed by specific creditors as having been sent on "sale or return," or approval, and trade customs are now being created on the same lines in respect of machinery, stock, safes, &c. The sending of goods on sale or return in the first place was with the view of giving the trader an opportunity of returning them if he did not wish to purchase, but now it has resolved itself into one or more creditors protecting themselves at the expense of the general body. If the trader sells goods which are supplied on sale or return the creditor can only prove for the amount, and, as the debtor holds them for sale prior to his bankruptcy, they should, after having been held for a period of fourteen days, be considered as assets, and pass to the trustee in the event of bankruptcy if they are not sold.

As an alternative, it is important that the goods should

be registered as a bill of sale, and a time limit fixed for the return of same.

Where a builder erects a house on contract the building materials and loose goods belonging to the builder at the time of his bankruptcy ought to pass to the trustee as divisible assets. Proprietors in the contract very often stipulate that building materials and other effects of a builder on the ground, in the event of possession having to be taken of the property, should also pass to the proprietor, but this is obviously unfair to the creditors of the estate, unless registered as an ordinary bill of sale.

The conveyance or transfer of property to a creditor by a bankrupt ought to be void without proof that it was the intention to prefer the creditor, providing such conveyance or transfer is made within six months of the bankruptcy, and is not within the ordinary scope of the debtor's business.

Cases are continually being met with where debtors have given an assignment of book debts, or forwarded stock in bulk to relatives or others in payment of alleged claims, with the view of preferring the particular creditor, and the onus on the trustee that it was the debtor's intention to prefer the creditor is very difficult to prove, and the present time limit of three months gives the debtor the opportunity of allowing this time to elapse by deferring filing his petition until same has existed above the period.

Where debtors assign book debts as security for money owing, the assignee can complete the assignment by giving notice to the debtors any time prior to the bankruptcy, and this prevents the debt passing to the trustee; and by collusion of the debtor, the assignee being probably a friendly creditor, no difficulty is experienced in this. A clause should be inserted that notice of an assignment should have been given by the assignee to the party owing the debt of at least one month prior to the bankruptcy, and the assignment should be registered under the Bills of Sale Act in the same way as a charge given upon movable effects.

Any settlement of property made on the wife or children after marriage is good against the trustee, providing the parties claiming under the settlement prove that the settlor was solvent at the time of making the settlement, but in cases where no books of account have been kept, or the transactions cannot be traced back, no difficulty is as a rule placed upon the party claiming the goods to show that the business was solvent at the time.

Household furniture and other property should in every case pass to the trustee where a settlement has been made after marriage. In most cases at the present time the furniture is claimed by the wife upon some statement that it has been purchased by her (without any documentary proof), probably from moneys saved from an allowance made to her by the husband prior to the failure.

The bankruptcy of a debtor relates back to three months preceding the date of the presentation of the bankruptcy petition, so that the trustee is entitled to investigate fraudulent transactions which have taken place within the three months, but this time limit is too short, and should be made twelve months.

Payments into Bankruptcy Estates Account.

Trustees having given security against any misappropriation of moneys of an estate, the formality and delay of paying into the Bankruptcy Estates Account at the Bank of England, and applying to the Board of Trade to issue cheques, should be dispensed with, and the trustee authorised to make his payments into and out of a special account opened at a local bank, as the committee of inspection may select. Any interest receivable in respect of the account to be part of the assets of the estate.

Preferential Payments in Bankruptcy—Wages.

In view of the large amount of preferential payments invariably shown by the summary of realisation, the preference now given to a clerk or servant of four months before the date of the receiving order should be reduced to one month, and the same in respect of wages to any labourer or workman, which now stands at two months.

Rent.

The limit of six months' rent now existing should be reduced to one period of rent—namely, where weekly tenancy, one week; monthly, one month; annually, one quarter, the same to have become due and payable prior to the date of the receiving order. In the event of the landlord having distrained for a longer period, and the bailiffs being in possession at the time of the bankruptcy proceedings, such amended time only to apply; and in cases where rent is payable in advance, such power of distress for future rent should not be exercised after the commencement of the bankruptcy proceedings, but the trustee to pay for use and occupation during the time he holds the possession of the premises.

Gas and Water.

Some of the gas companies or corporations have powers of distress without legal process, and in such cases the items are payable in full in the bankruptcy. These companies or corporations should be placed on an equal footing, and rank for dividend with the other creditors where distress is levied at the time of the bankruptcy.

Bankrupt's Discharge.

Having regard to the very large number of undischarged bankrupts in the country, it should be compulsory for every bankrupt to notify his present address and occupation to the County Court at the conclusion of every period of six months from his adjudication as a bankrupt, and to apply for his discharge within a period of two years of the bankruptcy; and where merely technical offences have

been committed, to do away with suspension of discharge, and make a monetary penalty to the extent of so much in the £, by way of judgment, such penalty to be payable by instalments to be fixed by the Court.

Solicitors—Undischarged Bankrupts.

It should be made compulsory for the Law Society to refuse to renew the certificates of solicitors who are undischarged bankrupts, subject to appeal to the Master of the Rolls.

Debtors Act, 1869.

The Act as it at present stands covers a wide area, but its effectiveness is curtailed by the fact that after most of the provisions it is stipulated that they only apply "unless the jury is satisfied that the bankrupt had no intention to defraud," and these words should be deleted from the Act, as, owing to their retention, it is very difficult to get a conviction under such circumstances, and very rarely are proceedings adopted under the Act.

The time limit of four months before the bankruptcy should also be extended to twelve months, and where a debtor disposes of goods by pawning or by sending to auction sales within such a period, providing such goods have not been paid for, he should be guilty of a misdemeanour under the Act.

It should also be a misdemeanour for a debtor, being a trader, to dispose of goods, except in the ordinary way of his trade, in bulk, without keeping an account showing the particulars of such goods; and any person receiving the goods without an account should be guilty as accessory to the transaction.

Provision should also be made for the prosecution of debtors who have not kept proper books showing their position at any time within three years of the bankruptcy, and where, being insolvent, they engage in betting transactions or rash or hazardous speculations which have contributed to the bankruptcy.

The limit of £20, where an undischarged bankrupt obtains goods without disclosing the fact that he is an undischarged bankrupt, should be reduced to £5, or £20 in the aggregate, as the £20 limit enables the debtor to get extensive credit for individual amounts from a number of creditors without disclosing the fact that he is an undischarged bankrupt.

Administration Orders.

Provision is made under the present Act for a debtor who is unable to pay the amount of the judgment forthwith, and whose indebtedness does not exceed £50, to apply for administration of his estate and arrange for payment of his debt by instalments, or otherwise, in full or to such an extent as the County Court consider practicable; and this should also be a provision not only for the debtor, but given to a creditor of his estate. In view of the tendency of County Court Judges to abolish committal orders in

cases where a judgment order has been obtained for payment by instalments, creditors have no other remedy to obtain payment of their assets, or of attaching undisclosed assets which the debtor may have, and this remedy they would have if they could apply for an administration order, as they would thus be able to secure legal access to the estate. A small trader may at present dispose of his business and keep a creditor at arm's length, although probably having means wherewith to pay the debt. The limit of a composition arrangement by the Court should not exceed two years where it appears to the Court that there is reasonable prospect of the debtor being able to pay within that period, subject to the power of the Court on further application to extend that period.

Registration of Partnership Names.

The registration of partnership names of firms carrying on companies, or under different titles, is a matter requiring urgent attention. We understand the matter has already been introduced before the proper authorities. At the present time any bankrupt appears to be able to trade under any high-sounding title, and such names as the Colossal Trading Company or the British Manufacturing Company may be merely the trading title of A. B., an undischarged bankrupt, or his wife. Particularly does it refer to the Bankruptcy Act, so far as regards a bankrupt trading in the name of his wife, say A. Jones. If his wife is named Elizabeth he may merely alter the name of trading as E. Jones, or perhaps merely as Jones, or Jones & Co. There is nothing to show to the outside world that the business is not his as before. If it was compulsory to put the name in full as Elizabeth Jones, it would be apparent to the creditors that they were dealing with the wife, and the assumption would be that the husband was an undischarged bankrupt.

Deeds of Arrangement.

It is considered that the position of large creditors under the Deeds of Arrangement Act, 1887, is at present very unsatisfactory. The large creditors—that is to say, the men who are interested more than others in the preservation of an estate under a deed of arrangement—are often defeated in their efforts by the attitude of some of the smaller creditors, who, unless they are paid in full, refuse to assent to the deed and throw the estate into bankruptcy. Experience proves that the result of this is to reduce the amount which would otherwise be available for dividend. It is therefore contended that greater power should be placed in the hands of creditors, and that under certain circumstances a deed of arrangement should be made binding upon all—in other words, that the execution of a deed of arrangement, within limits to be clearly defined, should be a bar to any subsequent petition in bankruptcy. The following suggestions are made with the view of carrying out this suggested amendment of the law:—

(1) That in the case of all estates where the unsecured liabilities amount to £1,000 or more, a deed of arrangement, assented to by *bond fide* trade creditors for amounts of not less than £20 each, and representing in the aggregate at least three-fourths of the total unsecured liabilities, shall be binding upon the whole of the creditors.

(2) That in the case of all estates where the unsecured liabilities amount to not less than £300 nor more than £1,000, a deed of arrangement, assented to by *bond fide* trade creditors for amounts of not less than £10 each, and representing in the aggregate at least three-fourths of the total unsecured liabilities, shall be binding upon the whole of the creditors.

It might be deemed necessary to give some appeal either to creditors who would not be able to vote under the above conditions or who may dissent from the deed, and in this event it is suggested that this right should only be granted on the ground that under the deed of arrangement either their own interests will be unduly prejudiced, that the arrangements under the deed will be detrimental to the estate, or that the deed has been secured in a fraudulent manner.

Solicitors' bills of costs under deeds of assignment should be taxed by the Court in the same way as is provided for by bankruptcy. Very heavy charges are sometimes made by solicitors under deeds of assignment, especially where they nominate their own trustee, or *vice versa*.

At present there is no account into which unclaimed dividends under a deed of arrangement may be paid. It is suggested that one should be opened, and that every trustee under a deed of assignment should be compelled to pay into such account any unclaimed dividends in his hands at the time of rendering his final statement of accounts. This should also apply retrospectively, so that dividends already in their hands, which must have accumulated to very large sums, should also be paid into the same account.

It is suggested that the remuneration of trustees under deeds of arrangement should be the same as that suggested for trustees in bankruptcy.

The accounts of trustees under deeds of arrangement should be audited to the satisfaction of the Board of Trade.

Deeds of Arrangement Act.

At the present time a debtor may make a deed of assignment for the benefit of his creditors, and file a petition any time within three months from the date of the deed which will have the effect of rescinding the deed of assignment. The result of this is that trustees under a deed of assignment are very chary of realising an estate conveyed by a deed within three months, in case the debtor should file his petition and the trustee may be brought to book by the Official Receiver; and, again, he is unable to distribute

the estate until three months have expired, on the same grounds.

This requires amendment so that a debtor should not be entitled to file his petition except within one month from the date of the deed, providing that at the expiration of the month the deed of assignment has been assented to by creditors representing three-fourths in number and a majority in value of the creditors above £20.

Registration of Judgments.

Although County Court judgments are registered, and appear in the London *Gazette* where not satisfied within fourteen days from the judgment, singularly enough judgments obtained under writs issued in the High Court, though for more substantial amounts, are not registered, and this deficit should be remedied, so that all judgments, whether obtained in the High Court or County Court, should duly appear. We expect this was some omission in framing the Act.

New Zealand Accountants' Bill.

A BILL intituled an Act to make provision for the Registration of Accountants, and for ensuring that Accountancy and Auditing shall be performed only by persons who have the necessary knowledge and skill to do the same, and for regulating the admission of Accountants to the Society to be incorporated as hereinafter provided.

Be it enacted by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same as follows:—

1.—The short title of this Act is "The Accountants Act, 1905."

2.—In this Act, wherever the context permits or admits of such an interpretation—

"Registered accountant" shall mean any person whose name is inscribed on the Register hereinafter provided for:

"Public accountant" shall mean a registered accountant who is in business upon his own account, in the course of which he is practising the profession of an accountant:

"Examined accountant" shall mean any person whose name is inscribed upon the Register, and who has sat for and passed the full examination prescribed by the Incorporated Institute of Accountants of New Zealand or by the New Zealand Accountants' and Auditors' Association respectively, or by the Institute in this Act mentioned, or the examinations prescribed by any other recognised accountants' association in any part of the British dominions or elsewhere approved by the Council:

"Registered Accountants of New Zealand" shall mean the association incorporated as hereinafter provided, and referred to as "the Institute":

"The Council" shall mean twenty members of the Institute, to be elected as hereinafter provided, to conduct and manage the business of the same:

"The Register" shall mean the Register of Accountants to be kept by the Council:

Pronouns importing the masculine gender shall, wherever used throughout this Act, be read as including the feminine gender.

The Register.

3.—The following persons shall be entitled to have their names inserted on the Register:—

- (a) All persons over the age of twenty-one years who, from and since the first day of January one thousand nine hundred and three to the date of the coming into operation of this Act, have been employed exclusively as accountants at a salary in any mercantile, banking, professional, or Government office within the Colony, or in any portion of the British dominions:
- (b) All persons over the said age who, since the above date, have been continuously engaged in business upon their own account within the Colony, and have in such business, or as a branch thereof, held themselves out and practised as accountants:
- (c) All persons who, since the first day of January one thousand nine hundred and three, and up to the coming into operation of this Act, have been employed for a portion of the said period exclusively as accountants at a salary in any mercantile, professional, banking, or Government office within the Colony, or in any part of the British dominions, and have for such other portion of the said period practised as accountants within the Colony on their own account:
- (d) All persons who at any time have publicly practised and been in business as accountants in the Colony, or in any part of the British dominions, for any continuous period of not less than four years:
- (e) All persons who are members of any accountancy association in this Colony or in any portion of the British Empire.
- (f) All persons who are members of any recognised association of accountants of any foreign country upon such terms and conditions as the Council may prescribe:

Any of the persons mentioned in paragraphs (a) to (e) of this section who may, within six months of the coming into operation of this Act, or, in the case of persons arriving in the Colony after this Act comes into operation, within six months of their

arrival in the Colony, apply to the Council, in the form in the *Second* Schedule hereto, to be registered shall, subject to section *four* hereof, be registered without undergoing any examination:

- (g) All *bond fide* students of accountancy who at the coming into operation of this Act are attending lectures, or are in any other way *bond fide* engaged in studying accountancy, shall, if they apply to be registered within two years from the coming into operation of this Act, be registered upon the passing of the professional examination only hereinafter provided for:
- (h) All persons of twenty-one years of age or over who shall, after the coming into operation of this Act, pass the examination in general knowledge and the professional examination for accountants prescribed by the Council.

4.—No persons, unless they are of good character and reputation, shall at any time be entitled to be registered.

The Registered Accountants of New Zealand.

5.—Immediately upon the election of the Council the members of the Council and all other persons who may thereafter be registered shall become and they are hereby incorporated as a body corporate, possessing a seal and a perpetual existence, under the name of the Registered Accountants of New Zealand (hereinafter referred to as "the Institute"). All registered accountants shall *ipso facto* be members of the Institute.

6.—Within six weeks of the coming into operation of this Act the Registrar-General shall, by advertisement to be published in such newspapers as he may think fit, invite applications to be registered from persons who are qualified to be registered under section *three* of this Act, and may prescribe a time within which such applications will be received. Every application must be in the form or to the effect set out in the *Second* Schedule hereto, and must be accompanied by a remittance to the value of *twenty-one* shillings. The applicant must state in his application whether he is or is not prepared to act as a member of the Council should he be elected.

7.—Upon the receipt of such application the Registrar-General shall within thirty days prepare a list of all who have applied for registration, and also a second list of all persons who have signified their willingness to become a member of the Council, and shall thereupon post such second list to every person who has applied to be registered, together with a voting paper in the form in the *Fourth* Schedule hereto, and shall name a day, being not less than thirty days from the posting by him of such voting paper, upon which the form shall be returned to him in an envelope, on the outside of which shall be written "Voting Paper for Election of Council of the Registered Accountants," or words to the like effect, and all

persons who return such voting papers shall be entitled to vote upon the election of members of the Council.

8.—All persons who have signified their willingness to become members of the Council shall be deemed to have been nominated for the towns in which the said persons respectively reside; and all other persons residing outside of Auckland City, Wellington City, Christchurch City, or Dunedin City, who have so signified their willingness shall be deemed nominated for the provincial towns.

9.—The Council shall consist of twenty members, four of whom shall represent Auckland City, four shall represent Wellington City, four shall represent Christchurch City, and four shall represent Dunedin City, the remaining four shall represent all or any other portions of the Colony (save and except the four cities mentioned), which shall be hereinafter referred to as the "provincial towns."

10.—Upon the day named by the Registrar-General for the return of the said ballot papers, or as soon thereafter as he shall deem fit, he shall proceed to the election of the Council, and shall call in any three accountants practising in Wellington he may decide upon to act as scrutineers. The Registrar-General shall in their presence open the letters containing the said ballot papers.

11.—No ballot paper shall be received nor shall be used in the election unless the signature of the person signing the same shall have been witnessed by a Justice of the Peace, Postmaster, clergyman, solicitor, doctor, Mayor, or City Councillor.

12.—The election shall be conducted as follows: In all cases where four persons only have been nominated for each or any city or provincial towns the Chairman shall declare such persons to have been duly elected.

13.—~~In~~ In all cases where more than the required number have been nominated the election of representatives for each city and for provincial towns shall be taken separately in the following order:—Auckland, Wellington, Christchurch, Dunedin, and provincial towns. Voting shall be by ballot papers only.

14.—At the election the Registrar-General, or any one appointed by him, shall write down the name of each candidate for Auckland City and the number of votes he has received. The four candidates who have received the highest number of votes shall be declared by the Chairman to have been elected, and they shall be the members of the Council representing the City of Auckland. The election for the other cities and the provincial towns shall then be proceeded with in like manner until the full Council is elected.

15.—There shall be no territorial restriction in voting, but every person shall be entitled to vote at the election for a member for each of the districts. In the event of a tie in any one or other of these elections the Registrar-General shall possess and shall exercise a casting vote.

16.—In the event of any dispute or difference as to the validity of ballot papers the same shall be referred to the Registrar-General, whose decision shall be final and conclusive upon the matter.

17.—The Registrar-General shall of his own motion supply any omission, defects, or errors in this Act relating to the election of the Council, or do anything not provided for by this Act which may, in his opinion, require to be altered or done in order to bring about the election of the Council, and any act or thing so done or omitted to be done by him which is necessary to bring about the election of the Council shall be deemed to be authorised under this Act.

18.—The election of the Council shall be for four years, but subject to alterations as follows:—At the end of the first year five of the Council shall retire—viz., Auckland one, Wellington one, Christchurch one, Dunedin one, provincial towns one. The same upon the second year, excluding the members who retired at the expiration of the first year, and thereafter yearly, and those shall retire who have been earliest elected.

19.—During the first three years, if any difference shall arise as to which of the members shall retire, the same shall be decided by ballot, those who have previously retired being excluded therefrom.

20.—Upon the election of the Council the Registrar-General shall give notice in writing to those who have been so elected to the Council, and shall convene a meeting of the Council to be held at Wellington at some place and date to be fixed by him, being not more than twenty-eight days from the date of the election.

21.—At such first meeting of the Council ten shall form a quorum. The Registrar-General, or some person appointed by him, shall attend the said meeting, and shall hand over to the same all applications for registration received by him and the list of applications prepared by him, and shall present an account of all moneys received by him for application fees.

22.—The Registrar-General shall deduct from such fees all expenses incurred by him in connection with any duties devolving upon him under this Act, and the balance of the moneys received by him shall be paid by the said Registrar-General or by the Colonial Treasurer unto the said Council, and thereupon the Registrar-General shall have no further duties under this Act.

23.—At such first meeting the Council shall proceed to the election of three members of the Council as President, Vice-President, and Treasurer respectively; the Council shall also appoint a Secretary, who shall be a paid officer. The Secretary may be a member of the Council or any other person (providing he is a registered accountant) that the Council may choose.

24.—There shall be an annual election by members of

the Institute of the Council, to be conducted in the manner which may be prescribed by, and at any town or place the Council may from time to time decide. Any casual vacancies shall be filled by the Council, but any person so appointed shall hold office only until the next annual election of the Council. Any member of the Council may retire at any time by giving one month's notice. A meeting of the Council shall take place immediately before each annual meeting, and fourteen days' notice of such Council meeting shall be given.

25.—Members of the Council may vote at any Council meeting by proxy upon any question of which due notice has been given. Such proxy shall state upon which question or questions the holder is authorised to vote, and such vote can be given upon such question or questions but upon no other. The Council shall prescribe the form of proxy to be used.

26.—Any member of the Council who is absent from three consecutive Council meetings, unless he has obtained leave from the President to so absent himself, shall *ipso facto* cease to be a member of the Council.

Duties of Council.

27.—The Council shall, upon payment of the prescribed fee, enter in the Register the names of any persons who may apply to the Council to be registered who in the opinion of the Council possess the qualification prescribed by this Act. The Council may at their option treat the applications made to the Registrar-General as if the same had been made to them.

28.—The Council shall, by advertisement inserted in any one or more newspapers and in the *New Zealand Gazette*, call for applications from persons desiring to be registered, and shall register the names of those persons applying who in their opinion possess the qualifications prescribed by this Act. No application shall be received unless it is in the form or to the effect of the *Fifth Schedule* hereto, accompanied by the prescribed fees.

29.—If the Council shall be of opinion that any applicant for registration does not possess the prescribed qualifications, the Council may decline to register, and shall notify such applicant that they so decline, and shall give the reasons for so doing. Should any person feel aggrieved by the Council so determining, he may at any time within three months issue a summons in the Supreme Court calling upon the President of the Council to show cause before a Judge thereof in Chambers why such person should not be registered. Upon the hearing of such summons evidence may be given orally or by affidavit, or in any way the Court or Judge may order; and the Court or Judge may make an order dismissing the same, or may order that the name of such person shall be inserted upon the Register, and may order such costs to be paid to or by the

Council as the Court or Judge may think fit, without reference to the scale of costs provided by the Supreme Court Code, and may order such costs to be paid as between solicitor and client or otherwise.

30.—All registered accountants shall be entitled to describe themselves as such by using the words "Reg. Acct." (Registered Accountant) after their names. A registered accountant may practise as a public accountant at any time by giving notice to the Council and paying the prescribed fees.

31.—All registered accountants who take out a practising certificate, and who are carrying on business openly as accountants on their own account solely or in partnership with any other person, shall be public accountants, and shall be entitled to describe themselves as such by using the letters "P.A." (Registered Public Accountant) after their names.

32.—All registered accountants who have passed the examinations prescribed by the New Zealand Institute of Accountants or the Association of Accountants of this Colony, or by any other recognised association of accountants in any other portion of the British Empire or elsewhere approved by the Council, shall have their names duplicated in a second Register to be called the "Roll of Examined Accountants," and shall be entitled to describe themselves as such by using the letter "E." after the words "Reg. Acct." if they are registered accountants only, or after the letters "P.A." if they are public accountants.

33.—A person commits an offence if he at any time uses the words "Reg. Acct.," or the letters "P.A.," or the letter "E." after his name unless he is authorised by this Act to use the same:

Provided always that it shall be a complete defence in any proceedings if the defendant proves that he is a *bond fide* member of any society or body represented by the said letters or that he is entitled by any other reason to so use them. In all proceedings proof that the defendant used the said letters shall be *prima facie* evidence that he has unlawfully used them.

34.—The Council may remove from the Register the name of any person who is in arrear for three months with the payment of any fees due or payable by such person under the Act or under any regulation made by the Council, and after posting notice of such removal to such person's registered address it shall be unlawful for him to use any letter or words indicating that he is a registered accountant under this Act; and no member shall exercise his right to vote if he is in arrear with the payment of any such fees.

35.—The Council may at any time, pending inquiry into any charge or complaint against a member of the Institute and before a final decision thereon, require him by notice in writing, delivered to him personally or posted to his

registered address, to deliver his diploma and any certificate of the Institute which may have been issued to him into the custody of the President or Vice-President of the Institute; and such member shall be guilty of an offence under this Act if he fails, unless he can show good cause for such failure, for fourteen days after receipt of such notice or of such posting to deliver the same.

36.—The Council may remove the name of any member who has been convicted of any offence for which the penalty may be imprisonment for any term, or who has left the Colony for over twelve months, or who is deceased, or who has been guilty of a wilful and continuous breach of any regulations made by the Council under the powers and authorities conferred by this Act, or who has been guilty of unprofessional conduct, or professional misconduct, or guilty of any offence under this Act.

37.—Any person who has been removed from the Register may apply to be reinstated, and, unless he has been removed for any cause affecting his character or reputation, or for professional misconduct, or for want of professional conduct, or for wilful and continuous breach of any regulations made by the Council, he shall be entitled as of right to be reinstated upon payment of any fees which may be prescribed by the Council. In all other cases the Council shall have a discretionary right to reinstate such person; and if the Council shall refuse to reinstate the applicant he may petition a Judge in Chambers to grant such reinstatement; and the Court, in considering and deciding such petition, may, if such person has been removed for wilful and continuous breach of the said regulations, order such person to be reinstated upon payment of a penalty not exceeding *fifty* pounds to the Council, and in all other cases may act upon the same principles as are applied by the Court in considering applications by barristers or solicitors for reinstatement who have been removed from the rolls for any offence or for professional misconduct.

38.—The Council shall remove from the Register the name of any person who has resigned his membership of the Institute, but such person shall, at the discretion of the Council, be entitled to be registered again at any time upon payment of the prescribed fees.

39.—All proceedings against the Institute shall be in the name of or against the President, who shall appear and sue and be sued for and on behalf of the Institute. Service of any proceedings shall be good if made upon the President, Vice-President, or any other member of the Council of the Institute. Any judgment or order against the President under which money is to be paid shall bind and be enforceable against the property and assets of the Institute.

40.—It shall be lawful for the Institute to acquire sufficient freehold or leasehold land in any part of the

Colony upon which to erect chambers for the purpose of the Institute, and to let or sell such parts of same as shall not be required for their immediate occupation.

41.—The Council shall have power to borrow any sum or sums of money for the purpose of erecting offices or buildings for the use of the Institute, and to give a mortgage over any freehold or leasehold property it may possess for the purpose of securing the repayment of such sum or sums so borrowed, or to issue debentures charged upon all the property of the Institute of whatsoever kind; and no mortgagee shall be called upon to inquire as to the object for which such moneys are borrowed or shall be affected by any defect or irregularity in any proceedings of the Council or Institute authorising such money to be borrowed; and the execution by the Council in the prescribed form of any such mortgage or debentures shall be conclusive evidence of the right of the Council or Institute to borrow the moneys purporting to be secured.

42.—The Council shall have full discretion to deal with the funds and property of the Institute, and to invest the same by deposit, or by the purchase of bonds or stock guaranteed by the New Zealand Government or by any local body, or to lend the same upon the mortgage of freehold lands within the Colony in such manner as they may consider advisable or as the members thereof may in general meeting determine.

Powers of the Council.

43.—(1) Without limiting any general authority to make such regulations as they may think necessary or advisable, the Council shall have full authority to make regulations as follows:—

- (a) Providing for the convening, conduct, and good order of the meetings of the Council and of members of the Institute, and of all things incidental thereto;
- (b) For holding such examinations of persons who wish to qualify for the insertion of their names upon the Register, and to fix the fees payable in respect of such examinations;
- (c) For appointing any person or persons honorary members of the Institute upon such terms, for such length of time, and upon such conditions as the Council may prescribe;
- (d) To compile examination papers for candidates for registration, to fix the subjects in which they are to be examined, and to decide what proportion of marks shall be obtained to enable the candidate to pass;
- (e) To fix the times and places at which such examinations shall take place;
- (f) Providing when and at what date each person whose name is on the Register shall pay to the Council the annual fees prescribed by the schedule of fees set out in the *First Schedule* hereto, and for issuing

annual certificates to such persons on payment of such fees, and for providing that each member shall have a registered postal address to which notices may be posted :

- (g) For striking off the Register the name of any person who has been persistently guilty of any breach of the regulations, or who has refused to comply with the same, and who has been cited to appear before the Council and has had an opportunity of defending himself :
- (h) Providing as to how any notices required under this Act shall be given :
- (i) For defining professional misconduct, or what shall be a want of professional conduct, on the part of any member :
- (j) For dealing with the funds of the Institute as the members thereof may in general meeting determine, and, *inter alia*, to use such funds for the purpose of—
 - (i.) Assisting any member of the Institute whose circumstances, in the opinion of the Council, may render assistance necessary ;
 - (ii.) To pay the practising fee of any member ;
 - (iii.) To grant prizes for scholarships at any school or university, or to offer prizes to be competed for by members of any accountant students' society ;
 - (iv.) To pay the fees of any member who is unable, in the opinion of the Council, through poverty to pay the same ;
 - (v.) To assist the widow, wife, or children of any deceased member ;
 - (vi.) To assist any district accountants' society ;
 - (vii.) To assist in any manner in the advancement of the profession of accountancy ;
 - (viii.) To publish any newspaper or magazine in the interests of accountancy, and to assist with funds any such paper published by any outside person ;
 - (ix.) To provide and keep up any library for the use of the members :
- (k) For the payment of travelling and other expenses of members of the Council or any delegates of members :
- (l) For regulating inquiries into the professional conduct or misconduct of members :
- (m) For suspending any member from practice during the hearing of any criminal charge brought against him in any Court of law possessing criminal jurisdiction :
- (n) For renting offices, for engaging and paying clerks, retaining counsel, engaging a solicitor or solicitors

or any other person or persons whose services they may require, and for dismissing any person :

- (o) For the holding of inquiries into any charges brought against members of the association, and for the conduct of such inquiries :
- (p) For the settlement of disputes and differences between members personally by referring the same to arbitration or in any other manner, and for the settlement of any disputes between the Council or the Institute and any person or persons :
- (q) For promoting harmony and goodwill between the members personally :
- (r) For promoting any act, matter, or thing which will tend to benefit the profession of accountancy, and in particular for drawing a scale of fees which the Institute may recommend as fair and reasonable for all classes of accountancy work :
- (s) Providing for the doing of anything which will tend directly or indirectly to promote the objects of this Act :
- (t) For the repeal, alteration, or variation from time to time of any regulation made under the powers herein conferred :
- (u) Providing for the custody of the seal of the Institute, and the method in which instruments requiring to be executed by the Institute shall be executed, by whom the seal of the Institute is to be affixed to any document, and the number of witnesses to attest the sealing of any document on which the seal is used :
- (v) For the issue of diplomas of membership to members, and for fixing the fee, being not more than *twenty-one* shillings in respect of the same.
- (2) All regulations made by the Council shall, until submitted to the members of the Institute, have the same force and effect as if they had been duly passed by a meeting of the members :

Provided always that all such regulations shall lapse unless they are laid before and are approved by a meeting of the members of the said Institute, which meeting shall be held within six months of such regulations being made.

44.—In any legal proceedings the production of a copy of such regulations, purporting to bear the signature of the President or Vice-President and Secretary, or by two members of the Council, shall be, until the contrary is proved, conclusive evidence that such regulations have been duly and properly made, and that such regulations are valid and are in full force and effect.

45.—The Council may call upon a member to appear before it and answer any charge involving moral turpitude or professional misconduct or want of professional conduct, and may, if it finds the charge proved, suspend such member from practice or remove his name from the

Register, subject to the right of appeal by such member to the Supreme Court or to a general meeting of the members, and no member shall resign his membership pending the hearing of any such charge.

Offences.

46.—After six months from the time of the coming into operation of this Act no person other than a public accountant shall hold himself out to the public as a public accountant or auditor, or shall use the words "public accountant" or "auditor," or any letter or letters, after his name in connection with himself or his business, either alone or in combination with any other word or letter tending to suggest that he is a public accountant, or shall directly or indirectly do anything which, in the opinion of the Court, tends to convey to the public that such person is a public accountant under this Act.

47.—(1) No person, unless he is a public accountant, shall perform for hire any accountancy work; but nothing in this section shall affect any clerk, manager, or other person who is paid a salary by the week or year, and whose whole time in business hours is at the disposal of his employer.

(2) Any contracts for accountancy entered into by any person prior to the coming into operation of this Act may be completed at any time within one year from the coming into operation of this Act without committing an offence.

48.—All registered accountants who take out a practising certificate shall, during the currency of such certificate, be entitled to perform any accountancy work save and except the auditing of public companies registered under the Companies Act, but shall not advertise themselves as accountants or hold themselves out as public accountants. "Public company" shall, for the purposes of this Act, be any company possessing more than fifteen shareholders.

49.—No public accountant shall allow his name to be used by any unqualified person.

50.—Any public accountant who practises for reward during such time as he may be suspended shall be guilty of an offence; and any registered accountant (not being a public accountant) who during the time he may be suspended shall be guilty of an offence if he performs accountancy for any person other than an employer by whom he is engaged as a clerk by the week or year and who is entitled to his whole time as set out in section forty-seven of this Act.

51.—Any public accountant who practises without taking out his annual certificate and paying the fee due thereunder, and any registered accountant who shall perform accountancy for any other person than an employer, as set out in section forty-seven, without taking out a practising certificate, shall be guilty of an offence; and neither a public accountant nor a registered accountant shall be

entitled to recover payment for any services performed by him during the time such certificate is not taken out.

52.—Any public accountant who shall wrongfully impart any information which has come to him in the course of his professional work to a person to whom he is not authorised to disclose the same commits an offence.

Penalties.

53.—Anything done which is prohibited under this Act shall be an offence.

54.—Every person who commits an offence under this Act shall be liable upon conviction to a penalty not exceeding fifty pounds. All offences under this Act shall be heard and determined summarily by and before a Stipendiary Magistrate.

Examinations.

55.—Save and except the persons named in section three, paragraphs (a) to (g) hereof, from and after the coming into operation of this Act no person shall be entitled to have his name inserted in the Register unless he has complied with the regulations and passed the examinations herein prescribed.

56.—The examination shall consist of two parts, one of which shall be the examination in general knowledge, the other in the theory and practice of accountancy, which shall be called "the professional examination."

57.—The general knowledge shall be the Matriculation Examination of the University of New Zealand, or any other examination not being of a higher standard than the matriculation) which the Council may prescribe.

58.—The syllabus of the professional examination shall comprise questions in bookkeeping, mercantile and partnership law, company law, accounts, auditing, the law relating to trustees and executors, bankruptcy, receivers, including, *inter alia*, the Acts of the General Assembly of New Zealand mentioned in the *Third* Schedule hereto, the preparation of Balance Sheets, reports, and all other matters which, in the opinion of the Council, will fairly test a candidate's knowledge of mercantile accountancy in all its branches.

The Corporate Seal.

59.—The seal of the Institute shall be made of metal or of rubber, and shall have on its face "The Registered Accountants of N.Z." in a circle, and in the centre the word "Incorporated, 1903."

60.—Any contract which if made between private persons does not require to be under seal may, if made between the Institute and any person or persons, be signed for and on behalf of the Institute by any two members of the Council duly authorised for that purpose by resolution.

General.

61.—The President, and, in his absence, the Vice-President, or, in his absence, any member of the Council,

shall take the chair at all meetings of the members or of the Council.

62.—Upon all questions and at any meeting each member of the Institute or of the Council shall have one vote; the Chairman shall have a casting vote as well as a deliberate vote.

63.—The President, or, in his absence, the Vice-President, shall, upon requisition in writing signed by not less than twenty-one members, convene a general meeting to discuss any matters in connection with the Institute. Such requisition shall state the business for which the meeting shall be called, and upon the receipt of such requisition the President shall within thirty days convene a meeting of the members; but it shall not be obligatory upon the President or Vice-President to convene such meeting unless the requisitionists shall deposit with him a sum sufficient to cover the reasonable expenses of the members of the Council in coming to such meeting, not exceeding in all the sum of *fifty* pounds. At such meeting, except with the leave of the Chairman, no other business than that mentioned in the requisition shall be entered upon. If the President or Vice-President shall not, upon the receipt of such requisition, convene the said meeting of the Council within thirty days, it shall be lawful for the parties signing the said requisition or any one or more of them to convene a meeting of the members to discuss such business, and any resolution passed at such meeting shall have the same force and effect as if they had been passed at a meeting of the members of the Institute duly convened by the Council.

64.—The annual fees may, after the first year of the coming into operation of this Act, be made payable upon a specific date in each year, and such fees shall be payable by every member of the Institute upon the date so named, in advance; and all members upon the Register shall become indebted as upon that date to the Institute for the amount of such fees, and the same may be sued for and recovered by the Council in the Stipendiary Magistrate's Court at Wellington or Christchurch, and for the purposes of this Act no objection shall be valid that the cause of action arises out of the district in which those Courts are situated.

65.—The Institute shall have a registered office, and shall file with the Registrar of Companies at Wellington the place and address where such registered office is situated, who shall cause the same to be advertised in the *New Zealand Gazette*.

66.—Any matter agreed to by the President, the Vice-President, the Treasurer, and a majority of the other members of the Council in writing shall have the same force and effect as if the same had been passed by a resolution of the Council duly and properly convened, although no meeting of the Council has been called.

SCHEDULES.

FIRST SCHEDULE.

SCHEDULE OF FEES.

	£	s	d
Upon any application to the Registrar-General to be registered	1	1	0
Upon any application to the Council to be registered :—			
By persons who do not signify their intention to practise as public accountants	1	1	0
By persons who signify their intention to practise as public accountants	3	3	0
By persons who are registered and who thereafter signify their intention to practise as public accountants	2	2	0
Annual subscription of registered accountants who do not engage in accountancy work, or who act as accountants for an employer only as clerk, and at a salary paid by the week, month, or year	1	1	0
Annual subscription by registered accountants who are in employment as clerks, and who engage in accountancy outside of the usual employment, but who are not public accountants	3	3	0
Annual practising fee of public accountants ..	3	3	0
Fee for issuing diploma of membership ..	1	1	0
For examination of candidates for each examination when papers are set by the Institute—general knowledge and professional ..	2	2	0
For reinstatement upon the Register	2	2	0

All annual fees are payable in advance.

SECOND SCHEDULE.

[Residence or place of business.]

[Date.]

The Registrar-General, Wellington.

Sir,—

I hereby apply to be registered under paragraph of section 3 of the Act.

I intend to practise as a public accountant.

I will accept office if I am elected to the Council.

I decline election to the Council.

Signature :

Occupation :

Residence or place of business :

My registered address is as follows :—

Name :

Residence :

Address :

THIRD SCHEDULE.

LIST OF ACTS OF THE GENERAL ASSEMBLY OF NEW ZEALAND AS MENTIONED IN SECTION 58.

"The Companies Act, 1903."

"The Bankruptcy Act, 1892."

"The Chattels Transfer Acts of 1885, 1895, and 1896, and any other Acts which the Council may from time to time prescribe."

FOURTH SCHEDULE.

REGISTERED ACCOUNTANTS OF NEW ZEALAND.

Voting Paper.

I, . of , being an accountant on the (Provisional) Register of Accountants, do hereby vote for the election of the accountants hereunder written to the Council of the Registered Accountants of New Zealand at the election to be held at Wellington on , 19 .

To represent Auckland City.

, of
, of
, of
, of

To represent Wellington City.

, of
, of
, of
, of

To represent Christchurch City.

, of
, of
, of
, of

To represent Dunedin City.

, of
, of
, of
, of

To represent Provincial Towns.

, of
, of
, of
, of

Signature :

Address :

Date :

Signed by the said , who is well known to me, in the presence of—

Justice of the Peace

[or Mayor, City Councillor, Postmaster, Member of Parliament, Clergyman, Solicitor, Doctor].

(Four) representatives to be elected for each city named above, and (four) to represent the provincial towns.

Accountants who have sent in their applications to the Registrar-General are entitled to vote for (twenty) different accountants, whose names must be on the list to be supplied by the Registrar-General herewith, and shall not give more than one vote to any one candidate. This voting-paper must be duly signed and returned to the Registrar-General by the day of , 19 .

This voting-paper is forwarded for the sole use of .

Signature :

Address :

Date :

FIFTH SCHEDULE.

The President of the Council of Registered Accountants.

Sir,—

I hereby make application to be registered as a registered accountant [or as a public accountant].

I claim to be entitled to register under paragraph of section 3 of the Act.

My qualifications to be registered are as follows: [*State shortly facts showing applicant comes within the paragraph he names.*]

I enclose my registration fee, £ .

My registered address will be as under:—

Signature :

Residence :

Occupation :

£1 1s. fee for registration as registered accountant.

£3 3s. fee for registration as public accountant.

Municipal Audits.

THE following further correspondence anent this matter, to which we referred in our issue of the 4th inst., has appeared in our contemporary:—

(To the Editor of the Manchester Guardian).

Sir,—Time will justify, or otherwise, the accuracy of my forecast that the report of the Departmental Committee on Municipal Accounts will "pave the way for the general application of the Local Government Board audit and the standardisation of municipal Balance Sheets, so far as it is possible to effect that very desirable reform under the present circumstances." In the meantime I would only point out that the terms of reference to the Committee are much wider than the letter of "A County Borough Treasurer" in your issue of to-day suggests. Clause 2 of the reference instructs the Committee to report, amongst other things, "generally as to the system on which the accounts of the various local authorities in England and Wales should be kept," &c.

Now, it is obvious that if the local authorities are instructed to keep their accounts upon a clear and well-defined plan, which will include the observation of certain regulations as to the provision for depreciation and those other objects around which the audit controversy has raged during recent years, the only question left for settlement is the largely formal one of who shall be responsible for the supervision of this system. It is quite possible to devise a system of accountancy, as "A County Borough Treasurer" knows, that is by itself an audit, and in that case the duties of the auditor would be largely of a formal character.

The proposals of the Joint Select Committee on Municipal Trading were, however, of a very different nature. They would confer upon professional auditors large advisory

powers respecting controversial questions, a state of affairs which I cannot imagine would be acceptable to municipal corporations that desire to retain financial policy in their own hands.

"A County Borough Treasurer's" statement that the Departmental Committee is over-weighted with Local Government Board officials is neither fair nor accurate. Of the eight members of the Committee, only three represent the Government Department.—Yours, &c.,

July 26th.

YOUR CORRESPONDENT.

(To the Editor of the Manchester Guardian).

Sir,—In reply to your correspondent's last statement, I beg to inform him that Mr. W. Runciman, M.P., Parliamentary Secretary of the Local Government Board; Mr. J. Bromley, accountant to the Board of Education, who was formerly a Local Government Board auditor; Mr. T. Pitts, the assistant secretary of the Local Government Board; Mr. E. P. Burd, chief of the Audit Department of the Local Government Board, and Mr. F. Merrifield, ex-Local Government Board auditor—five out of the eight—are either representatives or ex-representatives of the Local Government Board and its effete old system of audit. I leave your readers to decide whether my statement or his is correct. He says, "Only three out of the eight represent the Local Government Board Department." Certainly most of the Corporations of England would infinitely prefer as auditors professional accountants who have been trained and understand business matters to auditors who have been trained to "strain at a gnat and swallow a camel." Of this latter I could give hundreds of instances from their actual audits, for sometimes it might seem they were trying to drive busy business men from taking office under district councils.—Yours, &c.,

A COUNTY BOROUGH TREASURER.

Payments to Trustees of Deeds of Assignment.

(From The Solicitors' Journal.)

THE decision of the Court of Appeal in *Davis v. Petrie* (Times 6th inst.) emphasises the rule, clearly deducible from the provisions of the Bankruptcy Act, 1883, that no payment should be made to the trustee of a deed of assignment until his title has been validated by the lapse of three months without a receivership order being made against the debtor; but the case shows that the rule may be very unjust in practice, and it is unfortunate that a different result was not found possible. The sections upon which it is based are well known. Under Section 43 the bankruptcy of a debtor is to be deemed to relate back to, and to commence at, the

time of the act of bankruptcy being committed on which a receiving order is made against him, or if there are several acts of bankruptcy it relates back to the first committed within three months before the date of the presentation of the bankruptcy petition; and this date consequently fixes the time at which the trustee's title to all the debtor's property accrues. Now, an assignment by the debtor of his property to a trustee for the benefit of his creditors generally is itself an act of bankruptcy, and is available by any creditor for three months as a ground for a bankruptcy petition; so that if such a petition is presented within that period and a receiving order is made, the deed is necessarily upset, and any transaction under it, unless specially protected, is void. Such special protection must be sought, if anywhere, in Section 49, which enacts that nothing in the Act shall invalidate (*inter alia*) any payment to the bankrupt—which presumably would include a payment to the trustee as his assignee—provided that the payment takes place before the date of the receiving order, and that the person by whom it is made has not at the time of payment notice of any available act of bankruptcy committed by the bankrupt. But this second requirement cannot from the nature of the case be complied with. The trustee of the deed of assignment, in making his claim to receive debts due to the debtor, gives notice of the act of bankruptcy committed by the execution of the deed, and his claim is on its face defective until the necessary three months have elapsed without bankruptcy supervening. Hence a debtor of the bankrupt who pays the trustee during this interval pays at his own risk.

This was the decision of the Divisional Court and the Court of Appeal in *Davis v. Petrie* (*supra*). On the 5th of June 1903 one Watson executed a deed whereby he assigned all his property to Afford for the benefit of all his creditors. The defendant, Mrs. Petrie, was at that time indebted to Watson, who was a builder, in the sum of £21 for work done for her by him. On the 6th of June Afford by letter informed her that he had been appointed trustee of the deed of assignment and required payment of the £21. She paid him the amount on the 12th of June. Afford received other sums under the deed, amounting altogether to about £500, and made certain payments. A petition was presented against Watson alleging the execution of the deed of assignment as an act of bankruptcy, and a receiving order was made on the 20th of August. This was followed by an adjudication of bankruptcy on the 9th of September. The Official Receiver, acting as the trustee in bankruptcy, asked Afford for an account and payment of money in his hands, and the latter on the 3rd of September sent him £100. Apparently this was all that was paid over by Afford, and Davis, who was afterwards appointed trustee in the bankruptcy, claimed that the £100 did not include the £21 paid by the defendant, and, upon the ground that payment to the trustee under the deed of assignment was not a good

discharge of the debt, he commenced the action to recover the £21.

For the reasons given above, the claim was apparently well grounded. The Judge of the Brompton County Court, however, gave judgment for Mrs. Petrie. He admitted that the literal construction of the Bankruptcy Act, 1883, was in favour of the plaintiff, but the argument *ab inconvenienti* was strongly against him, and the Judge—why do the reports carefully suppress his name?—held that, although the deed of assignment was nullified by the occurrence of the bankruptcy within three months, yet, the nullification was impliedly subject to an exception of acts rightly done under it. But the Divisional Court and the Court of Appeal have found no reason in the Act for this exception. It was urged in the Divisional Court that, if the trustee of the deed of assignment had sued the defendant for the £21, there would have been no answer to the claim; and that until the deed was avoided, the trustee acting under it for the general body of creditors could properly sue. But to this the Court replied that the trustee had a title which would *ex hypothesi* come to an end if an act of bankruptcy took place, and the deed was itself an act of bankruptcy. Any action, therefore, brought by the trustee within the three months would have been met by the defence that his title was not complete.

In the Court of Appeal no attempt seems to have been made to contest the obvious construction of the Bankruptcy Act, but it was contended that the trustee in bankruptcy had by election limited himself to his remedies against the trustee of the deed of assignment. He might either, it was said, treat the trustee under the deed as his agent to collect the debts, and call upon him to account for the moneys collected, in which case he would affirm the deed; or, if he elected to treat the deed as void, he might treat the trustee under it as a trespasser, and claim as damages an account of the value of the property which he had converted. The argument is founded upon *Ex parte Vaughan* (14 Q.B.D. 25). In that case, as in the present, a deed of assignment had been followed by bankruptcy, and the Official Receiver claimed from the trustee under the deed of assignment certain moneys which he had received. The trustee claimed to deduct his expenses of carrying on the bankrupt's business. The Court put it to the Official Receiver that he must treat the trustee either as his agent or as a trespasser. "If," said Stephen, J., "you choose to accept him as your agent, you will be entitled to an account of the carrying on of the business, and the profit which he has made, or ought to have made. If, on the other hand, you treat him as a trespasser, and claim reparation for the wrong he has done you, I think you can only have compensation for that of which he took wrongful possession." The Official Receiver elected to treat the trustee as a trespasser, and

consequently he was liable only for compensation as just stated.

In the present case it was alleged that the trustee in bankruptcy, by calling on the trustee under the deed of assignment for an account, and accepting from him £100, had elected to treat the trustee under the deed as his agent, and was consequently debarred from questioning the validity of the payment made by the defendant to such agent. The allegation suggested a plausible way of meeting the difficulty raised by the case, but the Court of Appeal would not allow that the receipt by the trustee in bankruptcy of a sum on account was an election by him to adopt the entire transaction so as to constitute the trustee of the deed his agent in respect of all moneys received. The doctrine of election, said Vaughan Williams, L.J., applied as between two persons, one of whom had elected to act upon one of two alternative views of his rights, and in such a case he could not as against the other person, or any one claiming under him, recur to the inconsistent alternative view of his rights. But when dealing with a third person, as in the present case, who was no party to the election, it was a question of fact, aye or no, was the trustee under the deed the agent of the trustee in bankruptcy, and the mere fact that the trustee in bankruptcy had elected to adopt one part of the transaction by taking over certain money collected and acquired by the trustee under the deed for the estate, and treating it as part of the bankrupt's estate, did not affect the right of the trustee in bankruptcy as against third parties who had nothing to say to it.

In point of fact, the trustee of the deed was not the agent of the trustee in bankruptcy, nor was it shown that the £100 which was paid over included the £21 paid by the defendant, or any part of it. Hence the result remained that the defendant had paid the £21 to a person who was not entitled to receive it, and she was liable to pay the amount over again to the trustee in bankruptcy. But while this is inevitable, having regard to the provisions of the Bankruptcy Act, 1883, it may be suggested that the Act ought to be amended so as to prevent a recurrence of similar injustice. A deed of assignment is perfectly legal, and is a recognised mode by which debtors may arrange their affairs without causing their creditors to incur the expense of bankruptcy proceedings. The trustee under the deed has a *prima facie* title which should protect all transactions properly done under it, at any rate up to a certain limit. It cannot be expected that every debtor for a small amount who is called upon to pay by the trustee under such a deed will incur the expense of taking legal advice and having inquiries made as to the trustee's title. If it would be going too far to validate all payments made to the trustee, yet the Legislature might not unreasonably provide that sums up to the £50 might be paid to a trustee under a deed of assignment without the person paying being under liability to pay the debt over again.

The Progress of Assurance.

WHEN people are tempted to take a somewhat despondent view of the extravagance of this country, and to assume that thrift has departed from our shores, it is refreshing and encouraging to find that one of the best barometers we have shows that the country is more, and not less, thrifty than it used to be. Everyone will admit that life assurance is a most beneficent form of saving: that it blesses the man that saves, and, at the same time, brings untold advantage to those for whom the assurance is made. And the sums of money which the nation is annually devoting to this purpose are growing by leaps and bounds.

An exhaustive Insurance Supplement just issued by our weekly contemporary *The Statist* contains the following remarkable contrast of the sums now paid for life and old-age assurance, with the amounts paid according to the returns of ten and twenty years ago:—

	Annual Premium Income	Population No.	Per Head of Population
	£		£
1906	35,641,141	42,793,000	'833
1896	24,020,610	38,858,000	'618
1886	15,844,978	35,724,000	'443
Increase (20 years) ..	+19,796,163	+7,069,000	+ '390
Do. per cent. ..	+125	+19	+88

Such a growth testifies to the increasing importance attached by the country to the provision for premature death and old age. The greater portion of this expansion has resulted from the popularity of the comparatively modern form of assurance known as "endowment assurance," by which provision is made both for premature death and for old age. Until the eighties "endowment assurance" was practically unknown, and assurance was almost confined to provision against death. In what is known as the "ordinary" section of life assurance—a term invented to distinguish it from "industrial" assurance—whole-term-of-life policies are becoming more and more unpopular, while "endowment assurances" are monopolising the whole of the new business. In about twenty years the amount covered by "endowment assurances" has grown to over £200,000,000. The first year for which we have comprehensive data of the descriptions of assurances in force was 1890, and in the short space of sixteen years the growth in the sum covered by endowment assurances of "ordinary" companies has been £171,000,000. In this period the increased sum covered by whole-term-of-life policies has been only £63,000,000, while in the last four years, with practically no increase whatever in the whole-term-of-life policies, there has been an addition of nearly £50,000,000, or 30 per cent., to "endowment assurances."

The enormous expansion in endowment assurances in the

past few years, and the extent of the increase in other forms of insurance, as well as the total growth, will be apparent from the following statement:—

Ordinary Business.

	Whole Term of Life	Endowment Assurances	Miscellaneous	Total
	£	£	£	£
1906	456,289,088	205,548,656	35,789,384	697,627,128
1902	453,073,650	157,209,831	28,980,761	639,264,242
1890	392,838,625	34,307,580	15,290,061	442,436,266
Increase (16 years)	+63,450,463	+171,241,076	+20,499,323	+255,190,862
Do. per cent.	+16	+485	+134	+57

But while our contemporary recognises the great expansion of assurance in the last twenty years, it considers that the sums set aside for assurance as a provision for death or old age are quite inadequate still. Excluding "industrial" assurance, which cannot be regarded as a provision against death or for old age, the total number of persons assured in this country is not more than 1,600,000, whereas there are 11,000,000 men who ought to be assured. The great mass of the middle and almost the whole of the lower classes have as yet failed to take advantage of the excellent facilities for saving which assurance offices provide for them. Fortunately, the efforts of assurance companies to encourage prudence are supplemented by a great many employers of labour, who have created superannuation funds for their employees, to which the employers liberally contribute. By this means an additional section of the middle and some portion of the working classes are assisting to provide old-age pensions for themselves. But this form of assurance would be more satisfactory if it also covered the advantages to be derived from "endowment assurance." At present superannuation funds merely assure to an employee an annuity or pension for the remainder of his own life from a given age. In the event of his death a year or two after the agreed age his pension or annuity ceases, and no provision whatever is made for the widow. Further, in the event of premature death the widow of a beneficiary from a superannuation fund merely receives the money paid by her husband—a relatively small sum—plus the modest gratuity which the firm or company usually grants to her. But were superannuation funds to be converted into endowment assurances, for the premiums upon which the companies or firms would be partly responsible, a more adequate provision would immediately be made for the widows and children of workmen who meet with premature death. Further, the workman, on attaining the retiring age, would have the option of receiving the capital sum assured, plus profits, or a joint annuity in favour of himself and his wife, or two separate annuities, one for himself and one for his wife. In this manner provision would be made both for his own and for his wife's maintenance when they became old, and more adequate provision would be made for the maintenance of his widow and

children in the event of his premature death. To make clear the relative advantages of the two methods we summarise them below:—

Superannuation.

(1) Receipt of a relatively large annuity on one life after a given age, usually 65 (practically no provision for widow or family).

(2) Repayment of premiums to widow in the event of death before the age of 65.

Endowment Assurance.

(1) Receipt of a large capital sum, in proportion to the payments, on the premature death of the assurant; or

(2) Receipt of a large capital sum at an agreed age. (In well-managed offices the sum received is equal to the return of the premiums with compound interest at the rate of about $3\frac{1}{2}$ per cent. per annum); or

(3) On maturity of policy a joint annuity on man and wife, which the survivor continues to receive until death; or

(4) On maturity of policy two separate annuities on man and wife.

Inasmuch as the need to save arises chiefly from the duty of providing, first, for the wife and children should the husband meet with disaster or an early death; and, secondly, for the maintenance of the wife in comfort in her old age, superannuation allowances or pensions fail to attain the most desirable of all the objects in view. On the other hand, endowment assurances completely fulfil the object which should underlie all forms of saving—the welfare of the wives and children.

Reviews.

Catalogue of the Library of the Institute of Bankers.

1906: Blades, East & Blades, 23 Abchurch Lane, E.C.
Third Edition. Price 1s.

This Catalogue is divided into thirteen sections, dealing respectively with Banking, Bookkeeping and Accountancy, Commercial History and Geography, Currency, Finance, Law, Mathematics and Mathematical Tables, Languages, Miscellaneous, Reference, Periodicals, and Parliamentary Papers. So far as we are able to form an opinion, it seems singularly deficient in contemporary literature in almost every department.

“Wake up, John Bull.”

By EDWARD J. HOWELL.

London, 1906: Bemrose & Sons, Lim., 4 Snow Hill, E.C.
Price 6d.

As its title implies, this little pamphlet is of a popular rather than of a scientific character. It contains, however,

a good deal that is interesting, as bearing upon many of the foremost economic problems of the day, and especially emphasises the need for thrift on the part of both the individual and the State if existing undesirable tendencies are to be successfully combated. Inasmuch, however, as the writer does not appear to be identified with any particular political party, the prospects of his views attaining any widely effective circulation would appear to be slight. In these days, apparently, little or nothing can be accomplished save with the aid of party machinery, and what is thus accomplished would but too often be better left undone.

Personal.

MR. ROBERT BROMHEAD, F.C.A., of 11 Princess Square, Plymouth, and 4 Prince's Street, Truro, announces that he has admitted into partnership Mr. TALBOT W. HOLLAND, A.C.A. The style of the firm will be ROBERT BROMHEAD & Co. Messrs. ROBERT BROMHEAD & Co. announce that they have opened a branch office at 43 Chancery Lane, London, E.C.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, August 10th, was 115, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 56; Deeds of Arrangement registered, 59. The respective numbers in the corresponding week of last year were: Bankruptcies, 82; Deeds of Arrangement, 81—total, 163; being a decrease of 48. The total number of commercial failures recorded during the 32 weeks of the present year is 5,217; the total number recorded in the corresponding 32 weeks of last year was 5,582, showing a decrease of 365.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, August 10th, was 110. The number in the corresponding week of last year was 162, showing a decrease of 52. The total number filed during the 32 weeks of the present year is 4,767; the total number filed in the corresponding 32 weeks of last year was 5,258, showing a decrease of 491.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, August 10th, amounted to £1,777,387, by way of addition to £1,912,682, previously issued by the same companies. The amount registered in the corresponding

week of last year was £1,775,792, showing an increase of £1,595. The total amount registered during the 32 weeks of the present year was £53,972,840 (in addition to the issues in previous years by the same companies), as compared with £49,623,176 for the corresponding 32 weeks in 1905, showing an increase of £4,349,664.

The Profession in Scotland.

Obituary.

Mr. John Tweedie Bowie, Chartered Accountant, 18 Northumberland Street, Edinburgh, died at Callander on the 9th inst. He was one of the oldest members of the Edinburgh Society of Accountants, having been admitted in 1859. His remains were interred in the Warriston Cemetery, Edinburgh, on Monday.

Institute of Accountants and Actuaries in Glasgow.

At the quarterly general meeting of this Institute (incorporated by Royal Charter), held on the 31st ult., in the Hall, St. Vincent Street, Glasgow—Mr. John Mann, Senr., President, in the chair—the following, having passed all the examinations prescribed by the rules, and being found duly qualified, and having otherwise complied with the requirements of the Institute, were, on the recommendation of the Council, admitted as members:—William Fulton Andrew, Robert John Blackadder, Alfred Neale Easton, Matthew McGavin Graham, Noel Livingstone Mackness, Frederick Alexander Ritson, Lewis Findlay Robertson.

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Bank Rate of Discount.

Sept. 28th 1905	4%
April 5th 1906	3½%
May 4th	4%
June 21st	3½%

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VOL. XXXV.—NEW SERIES.—No. 1655.] SATURDAY, AUGUST 25, 1906. [PRICE 6d.

Extract from *Auditing*, by LAWRENCE R. DICKSEE, F.C.A.
(Page 100)

Licensed Houses present some rather special features. The goodwill attaching to the license gives the lease or freehold of licensed premises a market value greatly in excess of their real value as buildings. To be properly considered, the value of the premises and the license must be separated. The former should be depreciated in the usual way, leaving the license alone to be considered. A license on freehold premises does not depreciate, but a license on leasehold premises passes away with the premises and must therefore be depreciated like a lease. A license may at any time be lost—either for misconduct or for no reason—but this is a contingency outside the scope of depreciation. It may, however, be provided against by insurance, which would appear to be a most prudent course to adopt.

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Leading Articles.

**The Inquiry as to the Form of Accounts for
Local Authorities.—I.**

THERE can be little doubt, in view of the interest that has always been evinced by our readers in all discussions relating to the accounts of local authorities, that the proceedings of the Committee that has been recently appointed by the President of the

Local Government Board to inquire into this matter will receive the close attention of all practitioners. Moreover, the fact that Mr. JOHN GANE, F.C.A. (who was the President of the Institute at the time that the Committee was constituted), is one of its members, while providing an assurance that the professional aspects of the problem will be in no way ignored, enhances rather than detracts from the general importance of the matter. In a speech recently made at Brighton upon the occasion of the opening of a new electric power station, the Rt. Hon. JOHN BURNS, M.P., referred to the fact that some critics had stated that they feared the accounts of local authorities were not kept properly. "You leave that to me," said the President of the Local Government Board in his characteristic manner, "the Departmental Committee recently formed will draw up a method of keeping accounts that he who runs may read." For our own part, we are somewhat less optimistic upon the matter. We have, perhaps, a better appreciation than Mr. BURNS of the difficulties in the way, and of the necessary and inevitable complications, of accounts properly disclosing the true position of affairs relating to large, important, and therefore of necessity somewhat complicated business undertakings. But improvements upon the present eminently unsatisfactory position can doubtless be made; and, while sceptical as to the feasibility of any stereotyped form of accounts being suitable for universal acceptance under all sorts of varying conditions, we have no hesitation in saying that there are certain points upon which uniformity is highly desirable, and many upon which greater uniformity than that which at present obtains is perfectly practicable.

Many of our readers who have given special attention to the subject must be in a position to put before the Committee, as a result of their experience, points of considerable interest and value; and inasmuch as the number of witnesses that can be called, if the inquiry is to be brought to a conclusion within any reasonable time, must of necessity be somewhat limited; and inasmuch as only a comparatively small proportion of those witnesses are likely to be practical accountants, we would suggest that the whole problem might with advantage be discussed in these columns, so that, to some extent at least, the experience of the profession may be codified, and thus made readily available for the information of the Committee. With a view to opening such a discussion we have secured a copy of a memorandum which has been submitted to Mr. WALTER RUNCIMAN, M.P., the Chairman of the Committee, by a member of the Institute who has recently had occasion to make special and somewhat exhaustive inquiries into the whole subject, and as a basis for future discussion this will doubtless serve our present purposes even better than were we to open the subject by an enunciation of our own views.

It is pointed out by way of preface that the accounts of local authorities should be so framed as to meet the following requirements:—

- (1) To supply such information as may be necessary to enable the officials to see that all moneys receivable are duly received, and that no accounts are inadvertently paid twice over.
- (2) To enable a proper supervision to be exercised over those charged with the handling of money or stores.

- (3) To enable the members of the local authority to exercise due supervision over the employees.
- (4) To enable the Local Government Board to exercise due supervision over the local authority.
- (5) To enable ratepayers to judge as to the efficiency and economy with which the local authority discharges its duties.
- (6) To enable investors who have lent money to local authorities, whether upon mortgage or stock, to judge as to the soundness of their investment.

Reference is then made to the alternative claims of the Income and Expenditure Account and of the Account of Receipts and Payments as the fundamental basis for the accounts of local authorities; and it is stated that beyond question the former will be approved by all business men, as with books kept upon the cash basis it is practically impossible to ensure that all moneys receivable are actually collected and brought into account. At the same time, it is added that there is something to be said in favour of a Receipts and Payments Account being *also* issued, although it is, perhaps, doubtful whether the uses of such an account would justify the additional trouble involved.

Dealing with the subject of responsible and economical administration, it is suggested that from the point of view of both ratepayers and investors one of the most important accounts would be one containing, in tabular form, the estimated expenditure under each heading, the estimated amount of spontaneous income available to meet such expenditure, and the balance proposed to be raised by rate. These figures should be contrasted with the amount

of spontaneous income realised, the amount of rate realised, and the amount of expenditure incurred; thus showing the amount of the discrepancy between the estimate and the result, distinguishing between the discrepancy due to alterations in expenditure and that due to differences between the estimated and the actual income.

On the subject of Balance Sheets, the importance of an adequate Balance Sheet is duly insisted upon; and it is recommended that, in the case of all save the smallest local authorities, there should be a separate Balance Sheet in respect of each department, and an aggregate Balance Sheet, in tabular form, showing the combined position of affairs. These Balance Sheets should include all capital expenditure; but, as further borrowings are sanctioned to pay for renewals of existing assets, the original capital expenditure should be written off, so that from time to time the total appearing under each heading may represent, as nearly as possible, the cost price of actually existing assets. Such assets should be divided under the following headings:—

- (a) Unremunerative and unrealisable.
- (b) Unremunerative but realisable.
- (c) Remunerative.
- (d) Floating.

Care should be taken to see that all Balance Sheets represent a complete statement of assets and liabilities up to the date thereof, and in particular accruing assets and liabilities should be brought into account, even although not received or paid, as the case may be. In several cases Balance Sheets have been published misstating the position of affairs by omitting outstanding liabilities of considerable amount, and *per contra* in other cases assets have been omitted.

It is further suggested that the accounts might be materially simplified, if it were found possible to so modify matters as to enable one rate to be levied by each local authority to cover all classes of expenses incurred by it. The distinction at present observed between Borough Fund and General District Fund (or its equivalent) is, it is pointed out, extremely confusing to the uninitiated, and appears to rest upon no recognisable or logical basis, and that certain classes of expenditure which with some local authorities are charged against the one fund are at present, with other local authorities, charged against the other fund. Of course, the rates in respect of the two funds are at present levied upon somewhat different principles, and this may be regarded as an argument against the consolidation; but it is clear that, if the distinction between the two funds is not in all cases the same, there can be no very recognisable principle underlying such distinction as exists, and therefore the argument against consolidation would appear to rest upon no very logical basis. Certain it is that most municipal officials are unanimously in favour of a single uniform rate, while there can be no question that the accounts would be enormously simplified if such uniformity could be assured.

Company Law Amendment.—III.

ONE of the most notable recommendations of the Company Law Amendment Committee—whose Report we are now considering—is that comprised in Paragraph 33, suggesting that the audited Balance Sheet of every public company should be filed annually with the Registrar of Joint Stock Companies, and be open to the inspection of the public. From the

point of view of our readers, the significance of this proposed change consists, we think, in the material alteration that would then be made in the nature of the Balance Sheet, and of the duties of the auditor. Under the existing law a Balance Sheet is prepared by the directors for submission to the shareholders, and is examined by the auditors, who report to the shareholders whether, in their opinion, it correctly shows the position of affairs. Any statutory requirement that such Balance Sheet should be filed, and open to public inspection, would, it seems to us, at once cast upon directors and auditors a duty to the public as well as to the shareholders. It is quite conceivable that the interests of shareholders and the public may differ, and even at times be diametrically opposed; hence the point is one of great, and even of supreme importance. Again, it must be borne in mind that, even when Balance Sheets have only to be submitted to shareholders, there appears to be an increasing tendency to convey the smallest possible amount of information. With the compulsory publication of Balance Sheets this tendency will undoubtedly become greater, and then the difficulties of the auditor—whose duty presumably it would be to see that sufficient disclosure is made—will be greatly increased. If the plan of compulsory disclosure of one's financial position is to be followed to its legitimate conclusion, it would indeed appear to be open to question whether the auditor should continue to be appointed by the shareholders. At the present time, although auditors are, for all practical purposes, generally appointed by the directors, it is recognised that the practice is illogical, and thus outside shareholders are usually put up to propose and second the resolution to re-elect the auditors

for the ensuing year. If Balance Sheets are to become public property, shareholders in their turn will be equally with the directors accounting parties, and, as such, logically incapable of selecting a suitable auditor. Before anything is done in the way of putting this recommendation into practice, we hope that at least its effect will be carefully thought out, and the position of the various interested parties clearly defined.

Clause 44, which deals with the Audit, recommends that the certificate and report referred to in Section 23 of the Act of 1900 should form one document, which, if not published with the Balance Sheet, should be referred to by the auditors at the foot of the Balance Sheet as having been rendered by them, and that it be read at the general meeting. There is, no doubt, a great deal to be said in favour of this recommendation, partly because it would make for uniformity of practice where at the present time the most undesirable variety obtains, but also because it points to what seems to be the most satisfactory solution of the matter. Unless everything that the auditor has to say on the accounts is appended at the foot of the Balance Sheet, there are obvious objections to *anything* there appearing over his signature which might, even by the most ignorant, be mistaken for the auditor's report. On the other hand, where for obvious reasons it is occasionally undesirable that the auditor's report should become public property, it would be a distinct mistake to go back upon the excellent provisions of the 1900 Act, which enable an auditor to report fully and frankly to shareholders with the consciousness that he was not thereby necessarily injuring the credit of the company. The Committee also

suggest verbal alterations which would help to more clearly define an auditor's duties and to make the precise scope of those duties more generally understood. After much discussion, it is now, we believe, generally considered that the words "All our requirements as auditors have been complied with," are to be regarded as synonymous with "We have been provided with all proper facilities to enable us to make our audit." The Committee suggest that the words employed should be "We have obtained all the information that we have required," which, while equally concise, is, perhaps, even more intelligible to the average layman. The recommendation that the expression of opinion that the accounts afford a correct view of the state of the company's affairs, as shown by the books of the company, should be further qualified by adding after the word "affairs" "according to the best of our information and the explanations given to us and" is, we think, less happy. The whole matter is an expression of opinion, and not an expression of fact; and, that being so, it is surely sufficiently obvious that the opinion *must* be one formed as a result of investigation and inquiry. We do not think that the suggested words in any way alter the existing position, nor do we think they make it clearer.

The suggestion made by the majority of the Committee that notice of the nomination for election of any person as an auditor other than the retiring auditor should be given to the company not less than fourteen days before the annual general meeting, and that not less than seven days' notice thereof should be given to the shareholders, is useful as tending to avoid abuses arising through unbending directors resisting the attitude properly taken up by an

auditor in the discharge of his duties. They would be valueless, however, for all practical purposes, unless it were further provided that an auditor, once appointed, shall continue in office from year to year unless removed by a vote of the shareholders, or replaced by another auditor elected at a meeting after due nomination and notice thereof had been given.

We must confess that we are somewhat surprised that the Committee's recommendations as to audit should be thus dismissed in a single paragraph. There are numerous other points that call aloud for amendment, or for clearer definition, which have been frequently pointed out in these columns, and need not, therefore, be all now repeated. We will, however, mention one—namely, the absurdity of the usual practice of appointing an auditor "for the ensuing year" at a fee of so much, when perhaps another general meeting will not be held for eighteen months or more, and then, perhaps, the auditor will be asked to audit the accounts covering a similarly extended period. It is quite an open question whether an auditor elected "for the ensuing twelve months" remains in office for more than twelve months from the date when that resolution was passed; whereas most of our readers will not require to be reminded that when they have been appointed for the ensuing year at a fee of (say) £50, if they are subsequently asked to examine fifteen or eighteen months' accounts, their chances of getting £62 10s. or £75 (as the case might be) would be remote in the extreme. An auditor's remuneration should be at the rate of so much *per annum* during the period that he remains in office. And it would, we think, make enormously for efficiency in company administration if—instead of relying upon the principle laid down in *In re Joseph*

Hargreaves, Lim., that if the accounts are wrong and an auditor refuses to sign them, he has discharged the whole of his duty, and has in point of fact no right to communicate the fact to the shareholders individually or collectively—the provisions of Section 30 of the Railway Companies Act, 1867, were more closely followed, and the auditor given power at any time to add to his certificate, or to issue to the shareholders independently, at the cost of the company, any statement respecting the financial condition and prospects of the company which he thinks material for their information. This provision has been in force for nearly forty years with regard to railway companies, and has worked excellently in practice. It would certainly be well worth trying in connection with ordinary registered companies, and would probably prove the most effective means of combating the abuse that is very general among badly-managed companies, of refraining from calling general meetings, because by that means alone can hostile criticism be avoided, and, perhaps, even a continuance of office secured by the directors.

Accountancy in the Transvaal.

THE recent issue of the Year Book of the Transvaal Society of Accountants for 1905 provides us with a considerable amount of interesting reading, and shows the position of the profession in the Transvaal Colony more accurately, and perhaps more completely, than anything that has yet come into our hands. The Accountants' Ordinance of 1904, which has already appeared in our columns, is, of course, reproduced in full, and following thereafter are the Bye-laws framed in accordance with the requirements of the Ordinance, and

approved by the Lieut.-Governor of the Colony. These are, of course, of considerable importance to members, but of relatively little importance to others, as in the nature of things they deal almost exclusively with matters of domestic interest. It may be mentioned, however, that the provisions as to the examination of candidates for admission to membership follow, apparently, very much upon the same lines as those laid down by the English Institute, save that "The Elements of Political Economy" is prescribed as an additional subject for the Intermediate Examination.

The first annual meeting of the Society was held at Johannesburg on the 15th February 1906, and the report of the Council then submitted showed that there were 594 members on the register, 593 members had been admitted by the provisional Council, of whom two resigned, three did not pay their registration fees, and five have died, thus reducing the original numbers to 583. Eleven new members had, however, been admitted by the Council, being qualified by membership of other Societies, while five further applicants have qualified for membership by examination, of whom one had been admitted by the end of the year.

The Report proceeds to state that the attention of the Council has been occupied with the right of the partners of a firm of Chartered Accountants practising in the Transvaal, but who were not members of the Society, to hold themselves out as accountants practising in the Transvaal. In order to obtain a formal definition of the Council's powers under the Ordinance, one of these gentlemen was prosecuted, and the case decided in his favour by the Assistant Resident Magistrate on the 3rd June 1905. The Report goes on to

say that the Council is not satisfied with this decision, but has not succeeded in obtaining a revision thereof by the Supreme Court. Another case of professional interest mentioned is that of *Page v. The Transvaal Society of Accountants*. This arose out of the application of one of the partners of the firm already referred to, to be admitted to the Register. The application was apparently acceded to, subject to the applicant satisfying the Council that he intended to reside in the Transvaal for the purpose of practising his profession. The applicant refused to give the required assurance, and took action to compel the Council to place his name on the Register. The case came before Mr. Justice SOLOMON, presiding at the Witwatersrand High Court on the 22nd June 1905, who decided that the Council were entitled to the assurance asked for, which was then given, and the applicant accordingly placed upon the Register.

The first examinations of the Society were held last December, when nine candidates presented themselves for the Intermediate and nine for the Final Examination. At each of these examinations five candidates satisfied the examiners. Copies of the questions set are included in the Year Book, and will doubtless be found of interest to some of our readers. The papers are not nearly so long as those which the English Institute set, but in other respects are not particularly noteworthy. We observe, however, in passing, that it is apparently the custom for an executor in the Transvaal to receive remuneration for the work performed by him. Were such a practice to be general in this country, there would, we feel sure, be no ground whatever for the somewhat artificial complaint that it is difficult, if not impossible, to find suitable and competent executors and

trustees to administer the estates of deceased persons. There is no difficulty whatever in finding professional men who are prepared to undertake such duties as a matter of business, but there is very naturally a disinclination upon the part of most to assume responsibilities which are among the most onerous that can be imposed upon anyone, when the office carries with it no sort of compensation by way of remuneration for loss of time. Similarly, we observe that the Transvaal Society's Bye-laws provide for the remuneration of its auditors; which, we cannot help feeling, is both a reasonable and a business-like arrangement, although, apparently, it does not commend itself to the majority of British accountants. There is, no doubt, a great deal to be said in favour of accountants, like other members of the community, occasionally undertaking gratuitous work under suitable circumstances; but if societies that are not charitable societies, and which are well able to afford to pay any reasonable fee, may expect to have their accounts audited for nothing, it is difficult to see why the practice should stop short with societies of accountants—and, of course, as a matter of fact it does not.

That the Council of the Transvaal Society has lost no time in settling down to work for the interests of the profession is shown by the fact that, apart from the litigation already referred to, it has made representations with a view to securing for its members more adequate witness fees than it has hitherto been customary to allow for accountants. Unfortunately, however, its efforts in this direction have not met with success, as it has been found that the scale in use has been agreed to by all the South African Colonies, and that no change can be

made in one Colony without the consent of the others.

The accounts for the period ended 31st December last show a gross income of £5,168 7s. 7d., and an accumulated surplus carried forward of £3,237 8s. 11d., which represents some £82 more than the total amount received by way of registration fees. Alphabetical and topographical lists of members are, of course, appended to the Year Book, but, unfortunately, there is no summary showing how the members are distributed over the various districts. The majority are at Johannesburg, and Pretoria naturally occupies a second place; but the membership is sufficiently widely distributed to show that, even at this early stage, membership of the Society is regarded in its proper light, as a hall-mark of respectability and capacity.

Weekly Notes.

Savings Bank Deposits. A recently issued Parliamentary Return shows that during the past year £42,300,616 was deposited in the Post Office Savings Bank, and £42,096,036 withdrawn. At the close of the year the balance standing to the credit of depositors was £152,111,139, against £148,339,353 a year before. So long as this balance continues to increase steadily from year to year it is clear that no necessity arises for the Department to sell Consols, and it can thus afford to regard with equanimity the almost continuous depreciation that has been taking place. If, however, any reasonable system of accounting had been employed in the first instance, the bank's investments would never have been written up to the market price obtaining at the close of each financial year, and thus the necessity of now providing by taxation for the repayment to the Department of the sums improperly withdrawn in past years as so-called profits would have been avoided. Apart from being theoretically wrong, this system works particularly badly in practice, in that at times when Government securities are increasing in value practically no necessity arises to relieve taxation

by profits on trading departments; whereas at a time like the present, when taxation is heavy, the necessary charge to make good the financial mistakes of eight or ten years ago proves exceptionally irksome.

Alteration of a Bill on Registration of Limited Company. A case of considerable interest to all concerned in company work came before Mr. Justice Phillimore a short time since, when the Montreal Bank of Canada sued the Exhibit and Trading Company, Lim., of Liverpool, to recover £405 on a promissory note drawn by the defendants, payable to the Goderich Organ Company, and endorsed to the plaintiff bank. It appears that payment had been resisted by the defendants on the ground that the note had been "materially" altered by the addition of the word "Limited" to the name of the payees after the execution of the instrument, and also on the ground that the note was unstamped. His Lordship held that the alteration of the note by adding the word "Limited" was a material alteration within the meaning of the Bills of Exchange Act, 1882, and that promissory notes and bills of exchange remitted by post from this country must be stamped before the drawer has parted with them. He accordingly gave judgment for the defendants with costs. Leaving out of account the question of stamping, it is important to bear in mind that when a limited company is formed to continue an established business under the same name (but with, of course, the addition of the word "Limited"), and where the company acquires the assets of the vendor's business, the debtors of the vendor are entitled to a release from their creditor, and an acknowledgment from the company may, of course, be no release at all. A contract of sale would, in the nature of things, authorise the company to realise debts due to the vendors; but bills of exchange and cheques payable to the vendors should be properly endorsed, and not altered on the face thereof so as to appear to correspond with an acknowledgment given merely in the name of the company. Any irregularity in this respect may apparently have the effect of releasing the debtor without payment of the amount due by him.

By-Products. In a little handbook entitled "Textile Manufacturing Costs" recently issued by an enterprising firm of American accountants, it is stated that the object is not to manufacture waste, but cloth; if the waste amounts to $12\frac{1}{2}$ per cent., and it takes one million pounds of raw material to produce 875,000

pounds of cloth, the manufacturing cost of the 875,000 pounds must be regarded as the sum paid for the one million pounds plus the other items of expenditure in connection with the manufacture, while the sum realised from the sale of waste will operate to swell the surplus. As applied to the manufacture of a single article this principle might be sound, although, personally, we should prefer to deduct the amount realised on the sale of the waste from the aggregate cost, in order to determine the actual cost of the cloth produced. It would be interesting to know, however, how the firm in question would apply their principle to the more complex question of a chemical manufacturer, who while perhaps primarily setting out to manufacture one particular chemical, in the necessary process of so doing makes two or three by-products, which by further judicious expenditure can be readily made marketable at a substantial profit. It would be of even greater interest to know what sort of somersault would be performed in connection with the costing accounts, if, owing to fluctuations in prices, what was originally regarded as a by-product was eventually found to be the most profitable item in the manufacture. We are, of course, aware that no one can do justice to Cost Accounts in a pamphlet which probably does not exceed 600 words; but it occurs to us that those who desire to inspire confidence in their judgment as accountants would sometimes do well not to be too precise—or even too concise—in their statements.

Electric Light Works and Depreciation.

In a recent issue our contemporary *The Electrical Times* discusses the accounts of the Newcastle-upon-Tyne Electric Supply Company, Lim., which in general are of a very satisfactory character, showing a surplus available for dividends for the year ended 31st December last of £48,926 on a capital expenditure of £1,192,442, while the cost of production per unit works out at 0.57% against 0.67% in the previous year. As our contemporary points out, however, the weak part about these accounts is the provision of £12,500 for depreciation and reserve, which, working out as it does at 1.07% on the capital expenditure, can only be regarded as quite inadequate. It, of course, goes without saying that the proper provision for depreciation will vary considerably according to the nature of the equipment, and the nature of the soil in which the cables are laid; but, under even the most favourable circumstances, we question whether the minimum adequate provision could be put at less than three

times the amount provided by the Newcastle Supply Company.

Profits and Prospectuses. In a recently issued prospectus the usual accountants' certificate as to past profits is included, which contains the following additional explanation:—"As the ——— branch has "been closed since January 1905, the sum of £....., "representing the losses of that branch from 1902 to "1905, have been eliminated in arriving at the afore- "mentioned profits." We have no doubt that this qualification is all that is necessary for applicants under the prospectus to be advised of; but it occurs to us to point out that in making such statements as this very great care is necessary, as in the event of a branch being carried on at a loss it by no means necessarily follows that the whole of that loss would have been avoided, had the branch not been in existence. Not infrequently the increased output which is rendered possible by the establishment of additional branches enables goods to be purchased, or manufactured, at a lower price than would be practicable in respect of smaller quantities; and, if that be so, a somewhat intricate calculation would be necessary before any reliable figures could be arrived at, and it might even be altogether impracticable to arrive at any reliable figures at all under the circumstances. In an extreme case the advantage reaped by the business as a whole from the existence of an unprofitable branch might be considerably greater than the loss locally sustained by that branch, and this without taking into account the somewhat obvious case where goods are charged up to a branch at a price in excess of their actual cost to the head office.

Bankers and Cheques. The decision of the Judicial Committee of the Privy Council in the case of the *Colonial Bank of Australia v. Marshall* is one of considerable importance, not only to bankers but to the commercial world generally, for it must be remembered that although, strictly speaking, the judgments of the Privy Council are not binding on the Courts in this country, yet their decisions are good law, especially so since in this instance the case of *Scholfield v. the Earl of Londesborough* has been followed. The tribunal in question, affirming the judgment of the High Court of Australia, has held that whatever the duty of a customer towards his banker may be with reference to the drawing of cheques, the mere fact that a cheque is drawn with spaces left such that a forger could utilise

for the purpose of forgery, is not by itself any violation of that duty; and the fact that a cheque is so drawn and a forgery is committed by the insertion of additional words and figures in the spaces so left, is not evidence of negligence on the part of the drawer to go to a jury. If the banker pays such altered cheque in good faith, and with the exercise of ordinary care and caution, he is not entitled to debit the account of the customer with more than the amount for which the cheque was originally drawn. In the *Earl of Londesborough's* case, mentioned above, it will be remembered that a bill for £500 was presented for acceptance with a stamp covering a much larger amount, and with spaces left. The bill was accepted and handed back to the drawer, who fraudulently filled up the spaces and converted it into a bill for £3,500. On being sued by a *bond fide* holder for value, the acceptor paid £500 into Court, and the House of Lords held that the acceptor owed no duty of precaution to the plaintiff, and, being guilty of no negligence, was entitled to judgment. In the case of *Hall v. Fuller* a cheque was altered by the holder, who substituted a larger sum than that mentioned in the cheque, but in such a manner that no person in the ordinary course of business could perceive it, and the banker paid to the holder this larger sum. It was held that the banker could not charge the customer for anything beyond the sum for which the cheque was originally drawn. In *Marcussen v. The Birkbeck Bank*, the Judge, in summing up to the jury, said the law on the subject was that if a cheque was so carelessly drawn as to expose a banker using reasonable care to the risk of paying what was not intended, then the banker was not liable. It appears that where the bank has been negligent as well as the customer, the question will be whose negligence was the proximate cause of loss.

Company Registration Statistics. It is reported that 389 new companies were registered at Somerset House during July with an aggregate capital of £11,292,845, as compared with 317 in the month of June with capital amounting to £9,858,906 5s. According to a recently published parliamentary return the total number of new companies registered in the United Kingdom during 1905 was 4,358. The figures for 1903 and 1904 were 4,075 and 3,831 respectively, while the comparison of aggregate nominal capital is as follows:—1903, £126,606,000; 1904, £92,526,000; 1905, £119,179,000. The total number of companies on the register at 30th April last was 40,995,

with a total paid-up capital of £2,003,392,000, as against 39,316 companies with £1,954,337,000 in April 1905. The magnitude of the figures renders it somewhat difficult to grasp the inner meaning of their significance without the most careful thought.

The New Table "A." As has been previously mentioned, the Board of Trade have acted on the recommendation of the Company Law Amendment Committee, and have adopted the revised Table "A," which has been drafted by Mr. R. J. Parker and Mr. A. C. Clauson. The new table comes into operation on the 1st October, and as all companies registered after the 30th September next will be governed by these articles, unless they are, and in so far as they may be, expressly excluded, it is incumbent upon our readers to study the new table, which has already appeared in these columns (p. 107), without delay. Many companies will doubtless prefer the new and more up-to-date regulations, so that no time should be lost in becoming familiar with the new clauses.

Bank Managers and Customers' Accounts. The reprimand administered recently in the Mayor's Court to a bank manager, who was alleged to have disclosed the position of a customer's account, is fortunately one that is very seldom merited. It has been said that bankers are pestered by clients and other persons to give them information which is generally in the nature of confidential revelations of the accounts of their customers. Since the customer has to place entire confidence in his banker, and since the details of his account may necessarily disclose a great many facts relating to his business, it is only to be expected that the banker in return should treat all this information as being of the most sacred character. Speaking generally, however, there is little cause for complaint, for, as a rule, there is no person at once so extremely polite and so hopelessly non-committal as the average bank manager, when he is parrying questions of this delicate character.

A Scheme for Abolishing Rate Collectors. It is reported that the Marylebone Borough Council is considering a scheme under which ratepayers will receive their demand notes from the Town Hall, and then make their payments direct by a fixed date. It is said that the plan is calculated to save ratepayers a good sum of money per annum, as it does away with

the multiplication of work on the poundage system, and the cost attached to the employment of rate collectors. The City Corporation has, we understand, already taken steps in this direction, and is gradually concentrating the work of collection at the Guildhall. The reason for the move is rather obvious, because there are no fewer than 112 parishes, each of which possesses its own administrative scheme, and the number of officials engaged in consequence runs into several hundreds. For instance, although a parish may represent in all only some thirty houses or blocks of buildings, each has its own vestry clerk, overseer, and assistant-overseer and rate collectors. The last named in many cases run to three or four. One collects the police rate, another the consolidated rate, and another the general rate. It is estimated that, at the very least, a saving of between 2d. and 3d. in the £, representing in solid cash between £40,000 and £60,000 a year, will be effected.

The Art of Investment. An article under this title, contributed to the current number of *The National Review* by Mr. R. M. Horne Payne, has been the subject of a critical notice in *The Financial Times*. It is said that Mr. Payne advises those who have not the experience or the leisure necessary to make independent investigation to be guided by the advice of a "carefully-selected stockbroker," and our contemporary thinks that for one who is ignorant of investment business "the careful selection of a stockbroker" is not a little difficult. Mr. Payne proceeds to advise that the investor is to call and see three or four brokers, and choose the one whose conversation inspires most confidence, take up the bankers' references, and, where possible, find out his reputation for brains, solvency, and steadiness of character from some jobber in the investment markets. This idea has its humorous side, and we rather fancy brokers and jobbers entering into this competitive test. Mr. Horne Payne appears to suggest that a particular significance attaches to the figure 5, inferring that the purchase of a security yielding 5 per cent. amounts to, *ipso facto*, entering the realms of speculation. The critic points out that a 5 per cent. investment standing at par does not become a mere gambling counter, because, through the tightening of money or some other extraneous circumstances, the price drops (say) to 98. It is also difficult to agree with the statement that, in the selection of investments, the presence of at least two substantial men of good commercial standing on the board forms the "ver-

best" and "most infallible" test. From a grammatical point alone, there can be no such thing as the "most infallible" anything.

Bankers and Prize Essays. It is reported that the Institute of Bankers of New South Wales is offering a prize of fifty guineas for an essay upon the subject of Paper Currency in Australia. It is said that the General-Inspector of the Australian Joint Stock Bank was so impressed by the importance of obtaining a good opinion on this subject that he personally offered the sum of twenty-five guineas as a prize for the best essay on the question, and the Council of the Institute were so at one with him in recognising the importance of the matter that they agreed to find a similar sum, making fifty guineas in all. The competition is open to *bona fide* members of any bankers' institute in the world, and will not close until 31st January 1907. It appears to us that here is an admirable example set by our Colonial friends which might well be followed by one or every of the many Institutes that exist in this country. It cannot be said that there is any lack of problems, and there can be no doubt that the study which a competitive essay necessitates is extremely advantageous. We commend the idea to the parties concerned, and shall be glad to hear of some movement being made in this direction.

French Company Law. The French Criminal Court of Appeal has given a decision according to which a company formed abroad and having its business seat abroad is nevertheless to be regarded as a French company if the articles of association and the choice of the company's registered offices are only intended to evade the Companies Act of 1867. The case in point is that of a limited liability company with a capital of 3,000,000 francs (£120,000), promoted by a Belgian notary whose offices were registered as the offices of the company, which claimed to conduct business in France as a Belgian concern.

Life Insurance Companies. The report of the Select Committee of the House of Lords on Life Insurance Companies has now been published, and affords very interesting reading. It appears that the Committee find that there is an almost unanimous opinion amongst the leading British actuaries and life insurance managers against compelling foreign life insurance companies which do business in this country to

deposit funds as security for their British policy-holders. The objections seem to be mainly on the ground that it would violate the principle that the whole of the funds of an insurance company should be available for the claims of all policy-holders alike, that any such regulations might lead to reprisals on the part of foreign Governments, and that any such deposit might induce the public to suppose that the solvency of such companies was guaranteed by the British Government. There does not appear to be much in these objections, with the exception of that on the lines of equity that the whole of the funds of an insurance company should be available for all policy-holders. The Committee do, however, recommend that foreign companies carrying on business in this country should comply in all respects with the requirements of the Life Insurance Companies Act, 1870. They are also of opinion that the £20,000 which life insurance companies have to deposit with the Accountant-General of the Court of Chancery should not be capable of being withdrawn; and they think it would offer an absolute guarantee to policy-holders in foreign companies of being able always to proceed, if necessary, against such companies in the Courts of this country, and they recommend that every company which carries on business in Great Britain should be required to maintain this deposit of £20,000 permanently, so long as any policies continue outstanding in this country. Although the deposit of separate funds finds no support, the Committee express the opinion that the appointment of British trustees to act for foreign and colonial companies is highly desirable, not only in the interests of British policy-holders, but also in the interests of the companies themselves. On the question of publicity, they recommend that all insurance companies, whether British or foreign, should be required to furnish the Board of Trade with full Revenue Accounts, Balance Sheets, and Valuation Statements of their business, and the Board of Trade should have power to vary the returns from time to time, as they may think necessary. They think that in such returns the amount of foreign business and the amount of business actually transacted in this country should be carefully distinguished, but that there would be no need for a separate valuation, since they cling to the idea that the total insurance funds for every company should be available for all policy-holders. It is considered desirable that returns should be made by all insurance companies, both British and foreign, of the market value of the securities held by them.

There does not seem to be anything very revolutionary in the Committee's report, but opinions may be divided as to the necessity for compelling £20,000 to be made a permanent deposit. Now that the report has been published, we shall doubtless hear many views expressed, and as the subject is likely to be well thrashed out, it may eventually be possible to form a definite opinion.

Mine Costing Statements. A financial contemporary complains that there is no standard in existence for the compilation of mine working costs. It is said that some companies supply most elaborate tabulated schedules showing the cost per ton milled of every conceivable item of outlay, not only for the year but for each consecutive month. These statements, of course, while very valuable to those concerned in the administrative part of the undertaking, are not calculated to excite enthusiasm in the minds of ordinary shareholders. Other companies give little or no information, while again a further section steers a middle course. These differences, however, are of less importance than the variations which are said to occur in working costs. Some undertakings show on one side of the account the revenue from gold, and on the other the expenses of ore extraction, treatment, development, redemption and general charges, the latter including the realisation of the bullion. Other concerns include among the revenue sundry receipts in the way of rents, interest, &c., while expenses on the other side are made to include interest on loans, office expenses, directors' fees, depreciation, Government profit tax, &c. It is said also that, with regard to many of the companies operating in Western Australia, it was for a long time the fashion to regard development as an item of capital expenditure, and to write off a certain proportion of the outlay in the same way as depreciation is at present written off plant, &c. Although of late years much sounder views have prevailed, and the leading companies have debited revenue with development expenses, there still remain companies which ignore this item altogether; while yet again other companies which include development in their annual statement of working expenses, exclude it from the cost per ton mentioned in their monthly returns. It would, as our contemporary says, be bad enough if any company, though differing from others, regularly followed any line of procedure once decided upon, but the statements put forward often vary from year to year in the basis of their composition, and as

a rule without any explanation being afforded! The case of the Transvaal Gold Mining Estates is given, in which, prior to the last financial year, the gross value of the gold has figured on one side of the account in the analysis of working operations, while transport, bank, and other charges in connection with the realisation have been included in general expenses. Last year, however, the basis was altered by giving the net value of the gold, after deduction of the charges just referred to. It will readily be understood, therefore, that any comparison of the working costs of one mine with those of another, at any rate on the basis of the financial figures, is almost impossible—or at any rate, if possible, very misleading. It does not seem to be an insuperable difficulty, this standardisation of working costs statements, for there must be many hundreds of persons connected with the industry in a professional capacity who are capable of performing the task. We commend the idea to those of our readers who may be interested, and their opinions on the matter will doubtless be forthcoming in due course.

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinions expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Accounts of Seed Crushers. (To the Editor of The Accountant.)

SIR,—I shall be much obliged if you or any of your readers can refer me to any works on the Accounts of Seed Crushers, more especially as regards the form of Stock Accounts.

Yours truly,
STUDENT.

[Vol. X. of "The Accountants' Library" series bears on this subject.—Ed. Acct.]

Deeds of Arrangement.

(To the Editor of The Accountant.)

SIR,—I will accept Mr. S. Dawson's view that there is no substantial difference between the two cases he quotes.

I raised a question as to the meaning of the word "revocable," which I understand to be a power exercisable by a debtor in such a manner as to recall the authority he had given. To revoke is to cancel, to make void and of no effect, to repeal; and the act of revocation is the act of the debtor himself, sanction for which probably cannot be found in any Act of Parliament.

But my point is that, where the action of revoking an authority will not cancel that authority, it is the same as the power each man possesses of calling "spirits from the vasty deep." Where a debtor has executed a deed of arrangement, and sworn the necessary affidavits, and the deed has been registered, he has given under seal a validity to his own instrument against himself, which can be cancelled, not by any revocation on the debtor's part, but only by an order of Court or by a reconveyance from the trustee to the debtor.

Under the power of revocation, as interpreted in the days before the 1887 Act, a debtor might revoke an assignment as regards all non-assenting creditors. So that, if Mr. Dawson be correct (and the power of revocation still exists unaltered), then in a case where only one creditor has assented, the debtor can revoke the deed as to all the remainder, and the deed becomes one for the only creditor who has assented. This is not merely a *reductio ad absurdum*, it is perfectly logical.

"Revocation" is an old word, and I feel safe in saying that it has never been heard of in our Courts in connection with a registered deed of arrangement, and never will. The case of *Adnitt v. Hands* must have been before the 1887 Act—it could not have arisen after. If Mr. Dawson's contention is good to-day—although I admit his cases are unimpeachable until reversed by an equal authority—then in case of a deed signed on (say) Monday, communicated to a creditor the same day, where the Sheriff seeks to enter on Tuesday, the deed excludes him. But the deed is allowed to lapse since it was never intended to register it. But in the case of a *bonâ fide* deed which is registered, where the Sheriff takes possession before the trust is communicated, the deed is powerless to protect! Such cannot be the law to-day.

I do not impugn Mr. Dawson's cases. I only submit that no Court would to-day give effect to them as against a *bonâ fide* deed. Mr. Dawson must apply my point to his quotation from Section 17 of the Act, which is in my favour. For we are discussing not "a deed or

instrument which *by law* is . . . void or voidable," but a deed or instrument which, *by the formal act of the debtor himself*, is void or voidable without recourse to any law.

It may seem a little impertinent that two accountants should be utilising your pages to solemnly discuss an abstruse legal point, as if they were Lords of Appeal, but perhaps it will be forgiven in view of the many years' practical experience both have had. But I should like the opinion of your legal contributor on the points. I have kept out many Sheriffs with deeds, the existence of which no creditor knew, and have never been asked by a Sheriff if the deed was "revocable." The only question was, "Are you going to register the deed?" If not, he would interplead.

And, finally, if I am wrong in my opinion, I should much like to know why Wetherfield, in his "Law of Private Arrangements," published since both Mr. Dawson's cases were decided, takes the same view; and why Lawrance, in the fifth edition of his "Precedents of Deeds of Arrangements," said to be the standard work, published in 1900, should say (p. 17): "It does, however, occasionally happen that a deed of assignment is executed on the spur of the moment in order to defeat an execution. . . . In such a case it is better to have the deed executed by no one but the debtor and trustee, and NOT to communicate it to any creditors."

Since neither is convinced, we can only appeal to your umpire.

Yours obediently,

20th August 1906.

DAVID P. DAVIES.

[Our legal contributor will deal with this interesting question on his return to town.—Ed. *Acct.*]

Relative Value of B.Sc. and B.Com. Degrees.

(To the Editor of *The Accountant*.)

SIR,—Seeing the above subject opened for discussion in your columns, I should like to have a reply to the following:—

Whether it is possible for those who have passed the Final of the Institute of Chartered Accountants and desire to study as External Students for the degree of B.Sc. (Economics) of the University of London to obtain exemption from the ordeal of working up for the Matriculation examination?

If not, whether any approach has been made by the Council of the Institute to obtain such exemption for its members duly qualified?

I take it, the reason of the Matriculation is to test the general ability of the student, and, I think, this is amply satisfied when he takes his Final C.A.

Yours faithfully,

Digitized by Google I.A.C.A.

Requirements of Stock Exchange for Quotations.*(To the Editor of The Accountant.)*

SIR,—The Stock Exchanges require companies obtaining quotation of their securities to issue to each shareholder "a printed copy of the report, accompanied by the Balance Sheet and Statement of Accounts," and, in practice, it would appear that this requirement is met by the issue of an epitome of the accounts, to which is appended the certificate, and, generally, the report which has been made by the auditors *upon the detailed accounts*.

The print does not, as a rule, show the company's position accurately; in fact, admittedly, much information is withheld for the supposed safeguarding of the company's business.

In most cases, too, the accounts are held as read at the general meeting, and it is not clear whether the Balance Sheet signed by the auditors, or the printed abbreviation, is adopted.

I should like to have your opinion as to the responsibility of the auditor for the print, and whether the print or the detailed Balance Sheet is adopted.

In view, as it appears to me, of the great importance of this subject to the profession, you may perhaps decide to ascertain the views of its leading members.

Yours faithfully,

August 20th 1906.

OMEGA.

Review.**Elementary Bookkeeping.**

By J. S. WEBSTER and HARRY HUGHES.

A. Wheaton & Co., Western Educational Stores, Exeter.
Second Edition. Price 1s. net.

This is another of the somewhat numerous attempts that have been made during the past ten years or so to provide at a popular price a work upon elementary bookkeeping really adapted to use in schools and technical classes. That being the case, it is a little difficult to understand why the student should be expected to make himself familiar with anything so entirely obsolete as a Waste Book, or why such paramount importance should be attached to the Journal, which in the great majority of businesses has fallen into disuse. At the same time, it must be admitted that for its price the book contains a good deal of information, while the exercises appended are carefully arranged, and should be found of value for teaching purposes.

Defalcations: Their Prevention and Detection.

By R. H. NAGLE.

Prize Essay read before members of the Wellington (N.Z.) Accountant Students' Society.

IN selecting a subject for an essay the Committee of the Accountant Students' Society could scarcely, in my opinion have made a wiser choice than "Defalcations" for the consideration of the essayists. To my mind, the subject is one of prime importance to those interested in the accountancy profession, and indeed such a well-known authority as Mr. Lawrence R. Dicksee in his book on "Auditing," when referring to the duties of an auditor, tells us that "The detection of fraud is a most important portion of the duties." During the last few years many cases have been brought under my notice of seemingly conscientious men holding positions of trust robbing their employers. In most instances the men have been able to cover up their defalcations, in some cases for years, because their employers had neglected to safeguard their interests by failing to take advantage of the means at hand for providing an efficient internal check, and also by considering unnecessary the employment of the best and most experienced brains which the local accountancy profession could supply for the prevention and detection of fraud. The employers in the cases I have referred to received a sharp lesson for their neglect, and I can assure you none of them are likely to be delinquents in this respect again.

I take it that we are to consider the subject from the point of view of the profession rather than from that of the employer, so for convenience I will imagine myself an auditor who has been engaged to audit the books of the imaginary firm of Messrs. Brown & Jones.

Mr. Jones, junior partner of the firm, obtained the Cash Book one day in order to get out some figures connected with the last year's receipts. He was at the time engaged upon an analysis of the year's business. The figures puzzled him, for, though the sales had increased, the amount of Accounts Receivable was practically the same as at the end of the previous year, while the total cash received was smaller. Turning the Cash Book pages over aimlessly he happened to notice that the amount carried forward as shown at the top of folio 79 did not quite agree with the figures shown at the foot of folio 78. Some of the figures had been transposed: £4,650 at the foot of the Cash column on the receipts' side had been carried over as £4,560. Turning to the end of the month he found that the Cash Book had been neatly ruled off and the cash and bank balances carried forward to the next month. He

knew that the actual cash on hand at the end of the month under review had agreed with the balance shown by the Cash Book, as he had checked it himself. He called the cashier and required him to produce the cash he then had on hand, and this agreed with the balance shown by the Cash Book on that day. Evidently the cashier had pocketed £90. Mr. Jones said nothing to the cashier, but proceeded with the checking of the additions and carrying forward. Some months further back he came upon a somewhat similar error on the disbursements' side; a total of £456 had been carried over as £465. The cashier again apparently had profited by the error. This officer, though he had been with the firm only a couple of years, had been highly recommended by his last employer, and had always appeared to be a veritable personification of honesty. Suspicions having been aroused, however, the firm quietly decided to have their books audited by a professional accountant—a practice which had been allowed to lapse since Mr. Jones became a partner in the firm, some two years ago.

The junior partner had been an accountant before joining the firm, and it was decided to do away with the auditor, Mr. Jones to perform his duties. This he did conscientiously for the first few months, but since then, beyond occasionally checking the cash on hand, he had given scant attention to this portion of his work; in fact, as his time had been fully occupied on what to him appeared more important work, he had left practically the entire management of the office to his cashier. These facts were made known to me by Mr. Jones when he called to engage me to audit the books. In due course I proceeded to the office of the firm, and after perusing their deed of partnership, obtaining a complete list of the books in use, and a note of persons authorised to receive and pay moneys and order goods, thoroughly mastering the system in force, and carefully considering the uses and abuses of which each book was capable, I concentrated my mind on the question: What are the weak points of the system; or, in other words, Where is fraud most likely to creep in?

The system generally appeared bad. The cashier, in addition to keeping the Cash Book, kept the Bought Ledger, the Private Ledger, and made entries in the Returns Book.

The Customers' Ledgers were not arranged on a self-balancing system, and the same clerks had attended to the same work without check of any detailed kind since they had started with the firm.

After checking the opening balances on to the last Balance Sheet prepared by my predecessor, I commenced with an exhaustive check of the cash receipts and payments. I soon discovered irregularities. Our cashier had been an expert in his business, and devices of all kinds had been used. Space will not permit me to describe them

all fully, but no doubt an examination of a few of his methods will be found interesting.

During the first few months he had opened an account for a fictitious person in the Ledger by debiting Goods Account. A cheque had been drawn to square the account and he had stolen the cheque. A month later he put through a credit for £50 to a company from whom Brown and Jones had purchased goods, whereas the amount of the invoice was £20 only. A cheque for £50 had been drawn first pay-day, but only £20 of the amount could be traced to the company. About the same date I noticed several debits in the Cash Book amounting to £15 altogether. These had been posted to General Expense and other Impersonal Accounts. The payments were not supported by vouchers of any kind, and as no details were available and the cashier could not account for the entries in any way, it seemed certain that our unscrupulous friend had been the gainer by the amount of the entries.

On one occasion he stole £5 cash which had been paid to him by a customer. The firm used the ordinary numbered duplicate receipt book. The £5, however, was not put through this book, the receipt given to the customer being on one of the firm's account forms, which was contrary to the general instructions issued by the partners. So as to keep the Customers' Account square, our resourceful friend credited the £5 in the customer's account as a cash receipt, and at the same time made an entry for a corresponding amount to the debit of General Expenses. By this means the books were made to balance correctly, and this clever device could only have been detected by completely checking the postings or by using some check such as Jones's system of abstracting monthly postings to the Ledger on sheets ruled into debit and credit columns, and it is doubtful if the last-mentioned method could have been used to advantage as the firm's transactions were very numerous.

As we have seen from the foregoing examples, our cashier had greatly relied upon incorrect additions being undetected by the partners. As a further example of this, it was found that he had purposely added the Wages Book incorrectly each week for the last few months, making his total nearly £2 larger than the correct figure. No credit refunding the surplus cash could be discovered in the books. The partners considered it cause for congratulation that all the employees received weekly wages, as it was felt that had the workers been paid for the time worked the method would have proved another avenue for fraud. The chief feature of the cashier's general plan of campaign seemed to me to be the care which he used to prevent fouling with the customers. Owing to the laxity of the check placed upon him the Impersonal Accounts were naturally his best friends, and of course had to bear the brunt of most of his speculations. It was extremely

interesting, however, to observe the care taken when a customer's account had to be operated upon. Such rash schemes as stealing amounts remitted by customers and merely suppressing their statements, or stealing a cheque drawn by the firm for remittance to a customer were not included in his repertoire. Whenever a customer's account had to be touched he always saw that the amount stolen was credited in the customer's account from somewhere. One embezzlement was discovered in a curious fashion. Mr. Brown handed me for investigation a letter he had just received from Messrs. Swan & Co., Lim. This company stated that no receipt had been sent them for the cheque they had remitted in settlement of their April account, and desired that a receipt be sent in order to enable them to complete their files for audit. Swan & Co., Lim.'s account in the Ledger showed the amount which that company claimed to have remitted, but I was puzzled by the entry which, though reading "By Cash," came from the Returns Book. It transpired that the cashier had misappropriated the cheque, and so as to put the account of Swan & Co., Lim., in order he had passed the company a credit for a sum equal to the amount stolen. The faulty system of internal check had allowed him to do this without difficulty.

You can rest assured that I brought prominently under the notice of both partners the absolute necessity of placing the Returns Book solely in the charge of the person whose department received such returns, and it is needless to state that the keeping of this book did not form part of the duties of our dishonest cashier's successor.

The necessity of having all invoices as regards quantities checked and initialled by the person whose department received the goods was impressed upon the partners about the same time by the discovery of the fact that the interesting person whose shady practices we are considering was in the habit of obtaining goods for himself and having them included in statements against Messrs. Brown & Jones, this firm's cheque, of course, paying the whole amount. Too close a check cannot be kept on this point, for if the quantities, prices, and statements are not required to be checked and initialled by some responsible person other than the cashier a vast avenue exists for the exercise of fraud. Of course, other persons besides cashiers can profit by faking the records of the receipt of goods. I remember reading an account of a fraud on a large scale being perpetrated by the chief steward of a large steamer trading between U.S.A. and the far East. This gentleman was in the habit of ordering the supplies for victualling the ship, and he so arranged matters that when he ordered 50 bags of flour only 40 would be delivered. He signed for 50, however, and the trader who supplied the flour received payment for 50 and then sent his cheque for the value of ten bags to the steward. The

trader regarded this paltry accommodation in the light of goodwill necessary to retain his client's business, and the fraud, though practised regularly, remained undetected for years. I merely mention this incident in order to show that the checking and initialling by a person other than the cashier of the quantities shown on an invoice does not absolutely prevent fraud from creeping in, but it tends largely to do so. But to return to our cashier. It occurred to me that the Pass Book looked unusually clean, and remembering that forged Pass Books and forged bank certificates have frequently figured in frauds, even in New Zealand, I took it personally to the bank and had it checked, but was pleased to learn that the book was genuine that had been handed to me.

During his first call upon me Mr. Jones had asked my opinion of the Card System, and stated that he had thought of introducing it into his office. I felt pleased indeed that the system had not found its way into the business of Brown & Jones under the conditions which existed in their office during the past two years, as experience has taught me that the Card System, if loosely audited, affords extraordinary advantages to a fraudulent bookkeeper who wishes to cover up his irregularities.

In some businesses, especially those doing business on the hiring system, the use of Card Ledgers will undoubtedly be advantageous, but I consider that, unless closely audited, the system is altogether unsuited for a small office where the same man keeps Cash Book and Ledgers.

I have now reached the end of the list of fraudulent entries made by the cashier, so will proceed to describe the vagaries of another scoundrel who had robbed Messrs. Brown & Jones, fortunately to a much smaller extent than the cashier had done. This blackguard was employed as a salesman, and the method adopted by him will not take long to describe. It consisted of the simple device of pocketing cash sales, which he found simple enough, in spite of all of Messrs. Brown & Jones's internal checks, which, in the selling department, seemed all that could be desired. Triplicate counter checks were used for entering sales, each salesman having two books, one for entering credit sales, and the other for entering cash sales. While the salesman was absent on a holiday the firm's suspicions as to his integrity were aroused by a casual customer calling for a receipt. He stated that he paid the salesman £5 cash for goods and had told him not to bother about a receipt, but on returning to his shop his cashier had asked him to obtain a voucher for the payment. He said he had overlooked the matter for a week, but as he happened to be passing thought he would look in and get the voucher. No record of the receipt of the money could be traced in Brown & Jones's books. Other irregularities were discovered during the salesman's absence, and

he was unable to explain them satisfactorily on his return, so he was discharged. The firm deemed it inadvisable to proceed further, but merely made him disgorge such amounts as could be proved against him, although the partners were convinced that the man had carried on his dishonest practices for a considerable period. Indeed at the last two stocktakings the partners had been sorely puzzled to account for the seemingly small profits of the department in which the salesman was employed. Although a certain percentage on cost had been provided for, the department's gross profits had not nearly reached the estimated amount. The stock consisted of a very large and varied assortment of goods, and did not lend itself easily to a detailed check of each line, such as deducting from the number of, say, pipes on hand at last stocktaking, plus those received since, the sales for that period. Any difference which exists between the figure thus ascertained and the number of pipes actually on hand would, of course, represent the shrinkage in the stock. The partners, sorely disappointed at the dishonesty of an employee they had always trusted implicitly, felt certain that the mystery attached to the small profits of the department had now been solved.

A clever rogue in the sales department is indeed a thorn in the flesh, for no matter what system is adopted to keep him in check, ways and means to defraud can be found, and the man runs very little risk of detection if he is careful. Men of this class, who are brought to book usually after years of dishonesty, generally owe their capture to accident or to some petty carelessness.

Of course, certain classes of stock, such as, for instance, jewellery (where the goods are usually sold from trays, and such goods as are required each morning to complete the trays should agree exactly with the invoices or counter checks made out for the previous day's sales), and classes of stock that are handled only in bulk, are of such a nature that the checking is a simple matter and fraud cannot well exist without collusion, but I am inclined to think that the vital part of almost any system of check is the impossibility of preventing a clever rogue from putting the proceeds of cash sales into his pocket.

The dishonest collector who receives money which he does not report to his office is another individual who causes grave anxiety at times. From their nature some businesses are veritable paradises to this class of defrauder. One firm that came under my notice suffered heavily in this manner. Their goods were sold on the hire-purchase system, each article being hired at a fixed deposit, and, say, ten equal instalments payable monthly. Business was done all over the Colony on these lines through agents who were given liberal commissions on goods disposed of in certain fixed territories, covering areas of anything up to say 150 square miles. The firm

had a travelling representative whose duty it was to inspect the agencies. The agents were given numbered triplicate receipt books for collecting moneys, the receipt to be given to the hirer, the butt to be retained by the agent, and the third slip to be sent to the head office attached to the agent's remittance. Although the customers were requested to accept receipts only on the firm's printed forms it was found that the agent would give and the hirer would accept receipts on the agent's own account forms. The agents in such cases seldom remitted the money to head office, and these irregularities could only be discovered by the inspector calling on the hirer and comparing his receipts with a statement of the account supplied by the firm, and this method was costly, and in many of the bush districts impracticable. The firm lost hundreds of pounds annually through agents collecting moneys and not remitting them to head office. In these cases, of course, when the defalcations were sheeted home to them they had used the moneys for other purposes and could not refund same. The firm introduced a system of sending a circular letter monthly to each hirer stating the balance of hire at his debit on the books, and asking him if the amount did not agree with the balance according to his calculations to reply at once. The difficult part of the scheme, however, was in getting the hirer to respond. I mentioned before that the loss was the firm's, but was not quite correct, as many of the larger agents were covered by a guarantee insurance policy held by the firm, and of course in the event of any of the agents so covered dealing dishonestly with moneys which they held in trust for the firm the loss was borne by the insurance company, and I can assure you the company's position was not an enviable one, as far as this particular firm was concerned.

I have now considered the usual methods of defalcating as fully as my space will allow, and before proceeding to the consideration of their prevention would only emphasise the fact that with the exception of the fraud committed by the salesman, which as a rule can only be found out by accident, and the fraud committed by the collector, which in some businesses can only be traced after more or less delay and expense has been incurred, I have touched upon practically no fraud that would not be made impossible by a well thought out system of account, combined with a thorough internal check and a completed audit. It is, of course, desirable that the internal check be modelled on lines laid down by recognised authorities and modified with the use of common sense to meet the special requirements of the business. A good general system of account is of prime importance. I cannot do better in this connection than quote from Dicksee, who, while stating that general instructions naturally vary according to circumstances, and that it is impossible to give for general guidance more than the barest outline, mentions the

following points, which usually require to be considered in any system :—

- (1) All cash received to be paid into bank daily. The cashier to have no control over any of the Ledgers.
 - (2) All payments, other than petty cash payments, to be made by cheque, whatever the amount.
 - (3) The Petty Cash Book to be kept upon the Imprest System, under the supervision of the cashier. The clerk in charge of the petty cash must on no account be allowed to receive any moneys for sundry cash receipts.
 - (4) Counterfoil Receipt Books to be used for all moneys received, and vouchers obtained for every payment.
 - (5) The cash and bank balances to be verified weekly, or oftener, and the adjustments recorded in a special Balance Book.
 - (6) All Ledgers to be rendered self-balancing, and all Trade Ledgers to be balanced monthly. A maximum difference of (say) one shilling to be allowed in any one Trade Ledger, subject to the approval of the head bookkeeper. All such differences to be recorded from time to time in a special book kept by the head bookkeeper.
 - (7) An adequate system of Stock Accounts and Cost Accounts to be provided.
 - (8) All invoices for purchases to be passed by the Goods Receiving Department, by the buyer of the department concerned, and by the counting-house, before being entered in the Purchase Book.
 - (9) Statements for trade payments to be passed by some responsible person, preferably one of the partners, or, in the case of a company, the managing director.
 - (10) The calculations of all sales invoices to be checked in the counting-house before the Sold Ledgers are posted.
 - (11) Each time the Sold Ledgers are balanced a list of all accounts more than ——— days overdue to be submitted to the head bookkeeper, and by him to one of the principals for further instructions.
 - (12) A thoroughly efficient system of calculating and paying wages to be introduced, and closely adhered to.
- In the case of a company :—
- (13) The Minute Books to be fully entered up, and kept indexed to date.
 - (14) All exceptional transactions to be reported to the board at the next meeting for approval or further instructions.
 - (15) The various books required by the Companies Act to be kept written up, and the necessary returns to be made to the Registrar from time to time.

Having secured a good general system of account, our next regard is to complete the system of internal check upon proper lines. Dicksee tells us that "in devising any

"system of internal check there are three matters to be specially borne in mind—first, the person in charge of cash should never be in charge of a Ledger, or at least of a Trade Ledger; secondly, each separate Ledger should be made self-balancing, or at least should be so arranged that it can be separately balanced, and where this is for any reason not altogether practicable it is absolutely essential that those Ledgers which are not checked in detail by the auditor should be so arranged that they may be collectively balanced from those Ledgers that are; thirdly, where Trade Ledgers are numerous and are not checked in detail by the auditor the clerks in charge should be frequently changed about, so that if there is any irregularity it is impossible for it to remain long undetected without implicating the whole staff."

A good system of internal check not only has the advantage of causing irregularities to be adjusted much sooner than if they remained undiscovered till the auditor's next visit, but it frequently does away with the necessity for a detailed audit.

Having carefully arranged the system and the internal check to suit the particular requirements of the business we are ready to consider the question of audit.

Whether a continuous or a completed audit is most suitable depends upon the circumstances of each particular case. In a small business where the auditor can arrange to have sole access to the books while the audit is in progress, what is known as the completed audit will generally be found most desirable. Where, however, the transactions are numerous the continuous audit will frequently be necessary. In some businesses an auditor, if his work is to be of any practical use, will find it necessary to check every transaction to its source. In other businesses, owing to the arrangement of the Ledgers on the self-balancing plan, and the detailed audit being done by the staff under a good system of internal check, such an exhaustive examination is considered unnecessary, and this view is upheld by the highest authorities. Under any system, however, the cash, both as regards receipts and payments, and the postings of Nominal and Private Ledgers, should always be checked in detail.

Coming now to the detection of defalcations, I may say that my remarks on this important portion of my subject must necessarily be brief, as the consideration of their detection has entered so naturally into the discussion of the defalcations that, as I have progressed, I have referred to this point almost as fully as my space will allow.

The following audit instructions used in the office of the late Mr. David Chadwick, F.C.A., though regarded as a mere indication of the duties of an auditor, cover the ground fairly fully, and if proper regard were paid them at the commencement of each audit, the auditor need have

little fear of any ordinary discrepancies escaping his notice:—

- (1) In commencing a new audit you should obtain a list of all the books kept, and of all persons authorised to receive or pay money and order goods.
- (2) In the case of a joint-stock company examine the articles and board minutes respecting the receipt and payment of money, and the drawing of cheques, acceptances, &c.
- (3) Ascertain and take note of the general system upon which the books are constructed, and the plan of checking the correctness of the accounts paid, and whether exclusively or generally by cheques.
- (4) Report if the accounts and vouchers are submitted to the board of directors by an account committee or otherwise, and whether they are systematically checked and certified; and note any discrepancies.
- (5) Examine all the items in the Cash Book with the Bank Pass Book and vouchers, and put your usual audit initials in the Pass Book and to every item in the Cash Book. Ascertain if the bankers' Pass Book is frequently entered up and examined.
- (6) Note any unusual or extraordinary payments or receipts.
- (7) In regard to the payments for Wages and Petty Cash, note any unusual items, and see that vouchers for all payments are kept and produced.
- (8) Report whether a rough Cash Book is kept and whether the fair Cash Book is regularly and punctually posted and balanced, and if the balance is checked.
- (9) Report also if the entries in the fair Cash Book are in arrear, on account of the current year; and, if so, to what extent and why.
- (10) In all cases where branch establishments are included in one business, you will be careful to examine into the mode of bringing the returns of work, accounts, and expenses to the head office.
- (11) Examine all the Day Books, and see that the proper returns of purchases and sales are made by each department, and that the Bought and Sold Books are properly entered up; that the invoices are properly checked as to quantities and prices; obtain a declaration or otherwise satisfy yourself that every liability of the year is brought into account.
- (12) The postings in the Personal Ledgers must be checked from the Bought and Sold Day Books and the Cash Book, and also from the Bill Books and Journal.
- (13) The postings in the Nominal or Impersonal Ledgers must be checked from the journalising of the Bought and Sold Day Books, the Bill Books, the Invoice Books, and the Cash Books, and the mode and correctness of the journalising must be carefully proved.
- (14) Examine the Bills Receivable and Bills Payable Books, and note any item of past due, renewed or dishonoured bills, and make list of same and of the securities, if any.
- (15) Examine the entries and transfers passed through the Journal and check the postings; and although you are not held responsible for the details of classification, it is desirable you should make any suggestions required and note any discrepancies, especially in relation to the division of expenditure on account of Capital and Profit and Loss Accounts respectively.
- (16) Examine the Share Register, and see that the amounts received for calls agree with the entries in the Bank Pass Books, and that they are correctly posted to the credit of the respective shareholders in the Share Ledger; that all transfers from the transfer deeds are duly stamped and entered in the Register of Transfers; and also that the amount of the subscribed and paid-up capital and arrears corresponds with the Balance Sheet.
- (17) Examine the register of all mortgages on the company's property and all debenture bonds issued, and note and check the amount of capital paid in advance of calls, and of the receipts and payments in respect thereof with the Bank Pass Book.
- (18) In the accounts of stocktaking see that all Stock Sheets and returns are duly signed by the heads of departments, and that the same are correctly carried forward to the General Stock Account; and ascertain and note whether goods finished or in progress are taken at cost price or otherwise; also report whether in large concerns an independent check clerk or valuer has verified the stock returns in regard to prices and quantities.
- (19) In checking the Profit and Loss Account note whether the usual and proper deductions are made for wear and tear and depreciation, and for recouping of capital on works or premises held on short leases.
- (20) Take care that in the Balance Sheet no additions are made to expenditure on Capital Account, except such as are duly authorised by the board of directors, and note the distinction between new works and mere replacements.
- (21) Ascertain whether the conveyance deeds and other securities specified in the agreement of purchase

and articles of association have been duly executed, and the sums paid by the company on account of purchase have been duly endorsed thereon or otherwise acknowledged to the satisfaction of the solicitors or board of directors; also that the existence and safe custody of these documents has been duly certified; ascertain by application to the bankers the correctness of any balances, bills, or securities lodged with them.

- (22) Ascertain the correctness of the cash balances, bills, and other securities in hand, and take note of every exceptional transaction.

At the risk of being guilty of repetition I would emphasise the importance of thoroughly mastering the system in force before commencing an audit—of a careful consideration of the uses and possible abuses of which each book is capable, with a view of concentrating one's best efforts on the weak points in the arrangements where the exercise of fraud is made possible—and would suggest an appropriate motto to be kept steadily before the auditor, *Where is fraud most likely to creep in?*

In conclusion, I will only add that although an auditor may find fraud concealed under any item in the books, generally speaking, it can only be covered by the commission of a technical error or of an error of principle. It is well to bear in mind that the unexpected frequently happens, and the bookkeepers whose integrity appears to be above suspicion are often those who carry on their malpractices most successfully. It behoves us, therefore, to be ever alert for the wiles of the dishonest, and work assiduously in the search for fraud, and by the exercise of thoroughness in everything we undertake to minimise the risk of being deceived by the clever rogue who masquerades in the guise of a faithful servant, and with the aid of that tact which is characteristic of almost every successful business man, this should be easily accomplished without unpleasantness.

The Effect upon Title of an Act of Bankruptcy.

(From *The Solicitors' Journal*.)

THE judgment of the Court of Appeal (Vaughan Williams, Romer, and Moulton, L.JJ.) in *Ponsford, Baker & Co. v. Union of London and Smith's Bank, Lim.* (Times, 14th inst.), further illustrates the subject of the relation back of the trustee's title in bankruptcy, which we discussed last week in connection with the decision in *Davis v. Patric*. The plaintiffs, Messrs. Ponsford, Baker & Co., who were stockbrokers, had a current account and also a Loan Account with the defendant bank. The limit of the

authorised loan appears to have been £10,500, and securities were deposited with the bank to secure this amount. In April last the firm were declared defaulters on the Stock Exchange and they made an assignment of all their assets to the Official Assignee for the benefit of their creditors. At that time they had about £1,000 at the bank on current account, and the loan, which had been reduced by the realisation of securities, stood at £3,678. The firm and the Official Assignee considered that it would be for the benefit of the estate if the remaining securities were redeemed, and they tendered to the bank the amount due and called for delivery of the securities. The bank, however, objected that the assignment to the Official Assignee was an act of bankruptcy, and that they could not safely hand over any of the firm's property until three months had elapsed without bankruptcy proceedings being commenced; while if a petition was presented within that time, and bankruptcy resulted, the trustee's title would relate back to the date of the assignment, and any dealings with the property would be void. The protection afforded by Section 49 of the Bankruptcy Act, 1883, would not apply, because that depends upon absence of notice of an available act of bankruptcy, and here the bank had such notice, and made it the ground for refusing to deliver up the securities. The firm and the Official Assignee consequently commenced an action against the bank to compel delivery of the securities, and their right was recognised by Buckley, J., who made an order that, upon payment to the bank of the amount agreed to be due, less the amount due to the firm on their current account, the securities should be delivered up to the plaintiffs.

Prima facie, the objection of the bank to deliver up the securities was well grounded, and apparently the decision of Buckley, J., would have been different but for the authority of Wright, J., in *Re Lawford & Lawrence* (50 W.R. 592; 1902, 2 K.B. 445). There the debtors had, in September 1900, pledged certain chattels. On the 6th of October they committed an act of bankruptcy by suffering their goods to be sold under an execution. Of this the pledgee had notice, but, acting upon the written authority of the debtors, he allowed a purchaser of the pledged chattels to redeem them and he delivered them to such purchaser. A bankruptcy petition was presented on the 28th of November, and was followed by a receiving order and adjudication, and the trustee in bankruptcy, whose title related back to the 6th of October, claimed from the pledgee delivery of the chattels or payment of their value. Wright, J., however, held that, although the title of the trustee undoubtedly related back, yet the trustee took that title subject to the contract by the pledgee to re-deliver the chattels upon redemption. It would, he said, have been an illegality, and a wrong to the bankrupts, and, indirectly, to the trustee claiming their rights, if the

pledgee had not returned the chattels according to his obligation. He was compellable to give up his security, and he could have been sued instantly. In the present case it was said in the Court of Appeal that Buckley, J., was bound by this decision. "The decision in *Re Lawford & Lawrence*," said Moulton, L.J., "was, of course, binding "on Mr. Justice Buckley, and warranted and, indeed, compelled him to decide the present case in the way that he "did decide it." This statement must have been due to a slip. It is, we believe, well understood that no Judge of first instance is bound by the decision of a Judge of co-ordinate jurisdiction, although he of course treats it with deference. But however this may be, Buckley, J., did in fact follow the decision in *Re Lawford & Lawrence*, and held, as already stated, that Messrs. Ponsford, Baker & Co. and the Official Assignee were entitled to redeem the securities held by the bank notwithstanding the commission of the act of bankruptcy, and that the bank were bound to deliver up the securities.

The obvious weakness in the reasoning in *Re Lawford & Lawrence* is that, while the pledgee is undoubtedly bound to re-deliver the goods upon redemption, yet the person who comes to claim delivery must show that he is entitled to the goods, and such a title the owner who has committed an act of bankruptcy cannot show until three months have gone by without a petition being presented. The act of bankruptcy converts his title from an absolute title to a contingent one, and until it has been determined how the contingency will turn out, the owner cannot insist on receiving the goods as though he were still absolutely entitled. The point that he is entitled to sue immediately was taken in *Davis v. Petrie* (*supra*), and was relied on as showing that a payment to the trustee under a deed of assignment was good against the trustee in bankruptcy. It was suggested by the Court, however, that the defect in the title of the assignor, and consequently of the trustee of the deed of assignment, would have been a defence to the action, though, inasmuch as no action had been in fact brought, it was not necessary to consider the effect of allowing such a defence.

In the present case the Court of Appeal have dealt fully with the alleged right of a person who has committed an act of bankruptcy to sue for money or goods due to him, and have arrived at the conclusion that the contingency introduced by the commission of the act of bankruptcy does not afford a defence to the action, though it prevents the plaintiff from reaping at once the fruits of action. Formerly, indeed, when there was no definite limit upon the time during which the title of the assignees in bankruptcy would relate back, it was held that, while voluntary payments were not protected, yet payments enforced by coercion of law were valid against the assignees in case a commission in bankruptcy was afterwards taken out. "An

act of bankruptcy," said Ashhurst, J., in *Foster v. Allanson* (2 T.R. 479), "cannot overreach a judgment recovered." But the Court of Appeal now point out that the introduction of a definite limit of three months, during which the act of bankruptcy suspends the debtor's title, makes it unnecessary to allow exceptional validity to a payment made to the debtor under compulsion of law. Under the old bankruptcy law, to refuse him liberty to sue and to enforce a judgment would have involved a perpetual suspension of his rights; under the present law the suspension cannot last more than three months.

But though during these three months the debtor is prevented from asserting his claim to receive property, yet his disability is the result of statutory provisions enacted for the benefit of his creditors, and not for the benefit of his debtors. "They are not," said Moulton, L.J., "intended "in any way to weaken or postpone the duties of the debtors of the estate to discharge these obligations to it, "nor is the period of three months from the act of bankruptcy intended to act in any wise as a *moratorium* to "those debtors so as to give them relief or respite from "payments immediately due." The debtor, however, is the only person who can sue for the debts, and it is necessary to reconcile his right to sue and to obtain judgment, and the corresponding liability of his debtor to have the judgment enforced against him, with the policy of the bankruptcy laws which requires that the fruits of the judgment shall be preserved for the benefit of the plaintiff's own creditors should bankruptcy follow. The Court of Appeal propose to do this by introducing a new practice. "The "safe and, in our opinion, the right course for the Court "to pursue after notice of an act of bankruptcy on the part "of the plaintiff is to direct the money recovered from the "defendant to be kept in Court until it shall be seen "whether the person who is entitled to it is the plaintiff or "the representative of his estate."

But such a rule, while it covers the case of a debt due to the plaintiff, does not strictly apply where the plaintiff's claim is to redeem securities. There is now not only the difficulty that he is not entitled to take delivery of the securities, but also the difficulty that he is not entitled to make the payment required for redemption. "In our opinion," said Moulton, L.J., "the learned Judge"—that is, Wright, J., in *Re Lawford & Lawrence* (*supra*)—"failed "to realise that by the act of bankruptcy the pledgor dis- "qualified himself from making a tender to his pledgee, "and that, therefore, it was not open to the latter to accept "the money." But this, it is now held, does not prevent the intervention of the Court to prevent any inconvenience from arising through the temporary suspension of the pledgor's title. There may, as in the present case, be an assignee who is not incapacitated from making payments, and the Court may direct the pledgee to deliver up the

securities on payment by the assignee of the amount due, such securities to be held by him until it is decided whether bankruptcy will follow or not. If bankruptcy follows, the Court will, upon equitable principles, relegate the assignee to the position of the secured creditor, and the trustee in bankruptcy will only be permitted to get the securities upon payment of the sum which the assignee has expended in redeeming them. And even where there is no assignee the Court might, in exceptional circumstances, to save injury to the bankrupt's estate, sanction payment by the bankrupt himself. The form which such an application would take does not appear to have been suggested, and there might be some little difficulty in practice in working out the principles which have thus been laid down; but the elaborate and careful judgment of the Court of Appeal is obviously intended to provide a remedy for all cases where the suspension of the title of a debtor owing to an act of bankruptcy is likely to cause loss to his estate.

Personal.

MESSRS. SHARP, PARSONS & Co., Chartered Accountants, 120 Colmore Row, Birmingham, have admitted Mr. HAROLD ARTHUR SHARP, Associate of the Institute of Chartered Accountants, into partnership. The name and style of the firm will continue as before.

MESSRS. DAVID SIBBALD & Co., Chartered Accountants, have removed from 23 St. James's Street, Derby, to Smiths Bank Chambers, Market Place, Derby.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, August 17th, was 148, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 76; Deeds of Arrangement registered, 72. The respective numbers in the corresponding week of last year were: Bankruptcies, 84; Deeds of Arrangement, 70—total, 154; being a decrease of 6. The total number of commercial failures recorded during the 33 weeks of the present year is 5,365; the total number recorded in the corresponding 33 weeks of last year was 5,736, showing a decrease of 371.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, August 17th, was 127. The number in the corresponding week of last year was 118, showing an increase of 9. The total number filed during the 33 weeks of the present year is

4,894; the total number filed in the corresponding 33 weeks of last year was 5,376, showing a decrease of 482.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, August 17th, amounted to £1,174,653, by way of addition to £7,216,520, previously issued by the same companies. The amount registered in the corresponding week of last year was £2,463,070, showing a decrease of £1,288,417. The total amount registered during the 33 weeks of the present year was £55,147,493 (in addition to the issues in previous years by the same companies), as compared with £52,086,246 for the corresponding 33 weeks in 1905, showing an increase of £3,061,247.

The Profession in Scotland.

The Transfer of Consols.

At a monthly meeting of the directors of Glasgow Chamber of Commerce, the President (Mr. Henry Brock) in the chair, the Chairman explained that a communication had been received from Mr. J. D. Hedderwick on the transfer of Consols, and that relative thereto Mr. Arthur Hart would submit the following motion:—

“The directors of the Chamber, being of opinion that the present system of transfer of Government Consols is needlessly cumbrous, in so far as it requires either (a) the personal attendance of the transferor at the head office in London of the Bank of England, or (b) the execution and presentation at the Bank of a stamped power of attorney by the transferor, resolve to memorialise his Majesty's Government urging that steps be taken to legalise the transfer of Consols by the adoption of the method of transfer and issue of certificates, common to public companies generally—a method which by securing for the public greater simplicity would popularise investment in the national funds, and need not necessarily be attended with loss of revenue to the Exchequer, and that the matter be remitted to the Committee of Directors on Home Affairs, with power to memorialise to the above effect.”

Mr. Hart proposed the motion. After expressing regret at the absence of Mr. Hedderwick, who, he said, attached very great importance to the matter, he pointed out that the present system of transferring Consols was a very

antiquated one. Parties selling or buying must attend at the Bank of England, and it was perfectly obvious that that was quite beyond the power of parties residing in the provinces. Those interested in this matter had approached the Chancellor of the Exchequer and others. The Bank of England was quite sympathetic, but when they went to the Treasury they were met with the usual difficulty, that they did not see how any alteration could be made. Those interested in this much needed reform thought it would be desirable that Consols should be far more widely distributed in the country than at present. Consols were not what would be called a popular investment. That was probably due very much to the difficulty in transferring. At present the charge for transferring Consols was not dear. It was, therefore, not a question of expense. To transfer £100 Consols cost £4. For all sums over £100 the charge was the same—namely, 11s. 6d. The Treasury seemed to be afraid that there would be loss of revenue by what was proposed. Those who desired the change thought there should be something in the nature of a registration charge. He thought it would be only according to common sense that the man who was transferring £500 should not pay as much as the man who was transferring £1,000,000—that was to say, there should be some graduated charge. As to the issuing of certificates, the Bank of England issued a scrap of paper which the public had come to believe was equivalent to a certificate, but it had no negotiable value. What they wanted was to establish a Registration Department the same as any public company, and to issue certificates under certain authority, which would be a declaration that there was a *bond fide* holding of Consols.

Mr. Jacks, LL.D., seconded.

After conversation it was unanimously agreed, on the suggestion of Mr. John A. Spens, that the remit should be with instructions and power.

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LAW REPORTS.

BELLE STEAMERS: NEW SERVICE TO HERNE BAY.—Those who are accustomed to take occasional trips down the Thames to Margate, Clacton, and other places, will do well to vary their excursions by a visit to Herne Bay. A Belle steamer has been placed on the service, leaving Fresh Wharf, London Bridge, at 9.5 Mondays and Thursdays, and 9.15 Sundays. The fare is a popular one, and the trip will, no doubt, be greatly appreciated by those who do not care to travel with the crowds on the more well-known trips.

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Leading Articles.

Company Law Amendment.—IV.

ON the subject of floating charges the Company Law Amendment Committee is not unanimous. Three of the members—Mr. FRANK GORE-BROWNE, K.C., Lord FABER, and Sir WILLIAM H. HOLLAND, M.P.—considered that a company should have no greater facility for borrowing than an individual, and ought, therefore, to be incapable of charging after-acquired chattels, or future book debts, or other property not in existence at the time of the creation of the charge. The majority, however, take the view that it would be sufficient to meet admitted abuses, if the law were amended by providing that a floating charge given within three months before the commencement of the winding-up of a company should be invalid, except to the extent of the cash actually advanced at, or subsequent to, the creation of the charge,

together with interest at a rate not exceeding 5 per cent. per annum, unless it were proved that the company was solvent at the time the charge was created. At first glance this seems a most reasonable provision, which, if erring upon the side of undue conservatism, would suffice to meet the most serious abuses in connection with floating charges. A little reflection, however, seems to rather suggest that the proposed amendment would in point of fact amount to somewhat less than nothing at all. It would not perhaps be matter for surprise if the average business man should have entirely forgotten the fact that Section 164 of the Companies Act, 1862, relating to fraudulent preferences, still remains on the statute book; but, for all that, an undue preference within three months from the winding-up of the company is as invalid as one within three months from the date of a receiving order. It was only a short time since that Mr. Justice BUCKLEY decided in *In re Jackson & Bassford, Lim.*, that debentures issued by an insolvent one-man company to its so-called permanent director within a fortnight or so of the company going into voluntary liquidation were invalid, notwithstanding the fact that those debentures were then issued in pursuance of an agreement entered into at a considerably earlier date. The existing statutory powers as to fraudulent preferences are, it seems to us, quite sufficient to meet all reasonable requirements coming under that heading; but, curiously enough, not only company directors, but also their advisers, and even the Courts, sometimes appear to unaccountably forget the existence of statutory provisions until some special instance of their infraction arises which practically compels remembrance.

With regard to private companies, again, the Committee is not unanimous. Mr.

L. WORTHINGTON EVANS holds that a company formed by two or three persons is less objectionable in principle than a company formed by the same persons with the aid of a few dummies—a view which is surely unexceptionable, and at once acquires a practical importance when it is pointed out that the practice of insisting upon dummies, or nominees, to make up the magical number of seven teaches those forming family companies at the outset that they can get round the requirements of the law. This breeds a contempt for the law which is apt to lead to more serious breaches at a later stage. From the point of view of ordinary business common sense there is undoubtedly much to be said in favour of the view that, inasmuch as a one-man company is a clear and transparent evasion of the Companies Acts, it is hardly surprising that the one man constituting it should be tempted from time to time, as occasion arises, to see whether there are not other evasions which can be undertaken with an equal measure of success.

An interesting feature of the majority report is the attempted definition of a private company, which, so far as we recollect, is now so made for the first time. It is suggested that a private company should be one consisting of not more than thirty members, and by its regulations restricting the right of transfer of shares, and prohibiting (a) the increase of the number of its members to more than thirty, and (b) any invitation to the public to subscribe for any shares, debentures, or debenture stock of the company. Whether this definition would be found adequate in practice may well be doubted, but it certainly starts in the right direction. We would suggest, as further qualifications, that no private company should

be limited by guarantee, that its shares should be of a minimum denomination of (say) £25, or even £50, and that the word "Private" be in all cases added as part of the company's title, either before or after the word "Limited." So long as a so-called private company can be readily distinguished from a public one, there may be no particular objection to providing it with special facilities, as, for instance, exemption from the requirement of filing annual Balance Sheets; but unless such a distinction can be readily and accurately observed in the course of everyday business, the differentiation would, we think, be attended with considerable danger. Moreover, it should be borne in mind that the privilege of limited liability is well worth paying for, in the case of a family company, by the founder of a business who is desirous of retiring (or virtually retiring) without on that account making any very serious sacrifice in the amount of his income; while the suggestion comprised in paragraph 49, that the stamp duty on a transfer to a private company should be waived, is, we think, entirely uncalled for, seeing that a company, once formed, has perpetual succession, whereas with individuals a fresh conveyance is, of course, necessary with each life.

Under the general heading of "Minor amendments" some very useful suggestions are forthcoming. It would take too much time to refer to all of these in detail, and, inasmuch as they are practically all non-contentious, such a treatment would appear to be unnecessary. We may mention, however, in particular that in one or two respects it is suggested that the Companies Acts should be assimilated to the principles governing the parliamentary companies, a circumstance

which, while entirely commendable in itself, makes the inadequate consideration of the important subject of audit all the more remarkable. It is suggested, for instance, that in suitable cases statutory power should be granted to companies to pay interest on share capital during construction, and that the issue of perpetual debentures, or debenture stock, should be rendered possible. The suggestion that the rule which formed the basis of the decision in *Samuel v. Jarrah & Co.* is entirely out of date can, we think, hardly be regarded as coming under the heading of non-contentious; but few will be disposed to find fault with the suggestion that a company should be at liberty to reissue debentures which have been paid off, although doubtless the practice would tend to reduce the receipts of the Inland Revenue Department.

The Liability of Directors.

IN discussing the causes of the general disuse of the company prospectus during recent years, we are inclined to think that too little cognisance has been taken of the enormous risks incurred by directors, both under the Directors' Liability Act, 1890, and the more recent Companies Act of ten years later. These Acts make a director liable in damages to any allottee of shares in a company who has applied on the faith of a prospectus which is afterwards held to have been inaccurate in any material particular. It is quite immaterial whether the inaccuracy is, or is not, due to any oversight on the part of the director, for the purpose of determining his liability; and, when the liability of one director has been

established, he can apparently obtain a contribution from all his co-directors, even although the mistake—so far as it is due to any fault at all—may be due to his fault alone.

It is, of course, obvious that, if prospectuses are to serve any purpose more useful than that of securing applications for capital from the unwary or unduly speculative, those responsible for their issue must regard their responsibility seriously, and accept the consequences of any loss that may arise through the inaccuracy of the document which they themselves have put forward. It would be well, however, to keep this liability so far as possible within reasonable and businesslike lines, and until this can be done it seems idle to bemoan the "passing" of the prospectus, which the Legislature itself has done its best to kill.

As an instance of the unreasonable liabilities to which we refer, we may mention a case in which the directors of a company disclosed two contracts, under the impression that those alone were material; but omitted to disclose a third, which the Court subsequently held to come under that same heading. The result of this omission was, not one action, but no less than 122 actions for rescission—a form of procedure which certainly cannot be regarded as necessary to protect the *bonâ fide* interests of the claimants in question. It surely ought not to be impossible for practical lawyers to devise some scheme under which plaintiffs whose cases are for all practical purposes the same should be compelled to consolidate. This would materially reduce the costs that the unsuccessful litigant will be called upon to pay, while at the same time expediting the administration of justice, not merely so far as this particular series of actions may be concerned, but also in connection with all other

actions, the hearing of which may have to be postponed while the Court tries the same case one hundred and twenty-two times over.

We do not, of course, suggest that any ordinary defendant, having lost a case, would be likely to have the hardihood to go on defending a series of other practically identical cases. But we do suggest that a considerable amount of costs in an action are necessarily incurred before it comes into Court, and these ought to be capable of consolidation. We are aware, of course, that this would mean a loss of income to the legal profession; but, bearing in mind that there is a section of the legal profession which appears to make it its chief occupation to encourage impecunious shareholders to attack directors under conditions which are frequently but inadequately explained in advance, we should not regard it as an unmixed calamity if something could be done to discourage this form of "litigation by solicitation" in the future.

The Inquiry as to the Form of Accounts for Local Authorities.—II.

CONTINUING our comments upon the basis and form of the accounts of local authorities, the memorandum next proceeds to deal with the important subject of Depreciation, which, vital as it is in connection with the accounts of all business undertakings, seems to possess a special significance in connection with the accounts of local authorities, in that its alleged improper treatment has formed the basis of much (if not most) of the hostile criticism which has so far been levelled against these institutions. It is, perhaps, a little doubtful whether the proper treatment of Depreciation comes within the scope of the

Committee's inquiry, which was to inquire and report with regard to the systems of accounting at present in use, the system on which the accounts of the various classes of local authorities should be kept, and the regulations which should be made on the subject, regard being had to the necessity for showing accurately the amounts raised by local taxation and the purposes for which they are expended. There can be little doubt, however, that no adequate inquiry into the system on which the accounts of the various classes of local authorities should be kept could be made without going fully into this important subject of Depreciation, inasmuch as upon its treatment, perhaps more than upon any other one point, depends the question as to whether or not the accounts show, so far as may be possible, the true position of affairs. Upon this point the memorandum is especially valuable, in that it deals with the matter from an entirely novel point of view.

By way of preliminary it is pointed out that if when application was made for borrowing powers a local authority was required to obtain a separate sanction in respect of each separate item of expenditure, and the loan period of each sanction was fixed according to the estimated life of the asset to be acquired, as nearly as the same could be determined, then the statutory Sinking Fund instalments would correspond exactly with the proper depreciation charge, and thus the Revenue Account of trading departments, if charged with such Sinking Fund instalments, would show the true profit on such trading. Owing, however, to the system of granting loans for an equated period, there is in point of fact no such correspondence between the loan period and the life of each separate asset,

and in many cases it cannot even be said that the loan period represents even the average life of the assets proposed to be acquired. Where the loan period is shorter than the life of the asset, the charging of Sinking Fund instalments against Revenue has the effect of understating the true profits; where, on the other hand, the loan period is longer than the estimated life of the asset, the converse position obtains. It is impossible for anyone looking at the published accounts of a local authority to form any reliable idea of the true position of affairs, because the necessary information is not available. It is suggested, therefore, that, appended to all such statements of account, there should be a table showing the estimated life of all the various assets acquired, under suitable headings; the amount of the Sinking Fund necessary to provide for the writing-off of such assets out of Revenue during the estimated life; the amount of the Sinking Fund required by statute to provide for the extinction of the loan by the date of its maturity; and, in separate columns, the excess (or deficiency) of the statutory Sinking Fund, as the case may be. In order to arrive at the true profits of the undertaking, the difference between these two last columns only need be taken into account. But, in order to effectively provide for the renewal of assets as they wear out, it is necessary that Revenue should be charged, in addition to the statutory Sinking Fund, with the *gross* amount of the deficiency thereof in respect of assets whose estimated life is less than their respective loan periods. Otherwise, when the time arrives for the renewal of these assets, full provision will not have been made for the redemption of the outstanding loan, and it will therefore not be possible to obtain sanction

for the borrowing of an amount equal to the amount of the original loan. In this event, either renewal must be postponed, and the efficiency of the undertaking for the time be impaired, or a heavy and unexpected charge will have to be borne out of Revenue during the year then current.

In conclusion, it is pointed out that in the nature of things no form of accounts, however admirably designed, can serve any useful purpose unless steps be taken to ensure a strict responsibility for accuracy on the part of those responsible for the issue of such accounts. Reference is made to certain cases which show that, at all events in isolated instances, local authorities have failed to duly appreciate the seriousness of their responsibility in this respect, and have therefore, however unthinkingly, been a party to the issue of accounts which were inaccurate in other than purely technical matters. It is argued that there is no reason whatever why the members of the Finance Committee of a local authority should not be held as strictly to account as the members of the board of a joint-stock company. Nor is there any reason why the senior officers of a corporation should not be held as responsible as the officers of such a company. But, so long as the present system of immunity exists, it will be a mistake to hope for too much from any prescribed modifications in the existing form of accounts, in that, after all, questions of form are of minor importance unless the substantial accuracy of the underlying *facts* can be reasonably assumed.

There are, no doubt, many other points that will occur to several of our readers, and some may wish to discuss the views that have been expressed in this and the preceding article. To such we may say that our Correspondence

columns are open; but at the same time, as upon previous occasions we have found that there is a considerable tendency to prolixity on the part of those interested in the subject of municipal accounting, we trust that our correspondents will state their views as concisely as possible, and will (so far as may be) refrain from instancing specific cases or mentioning names. Our reason for this last suggestion is that, wherever the methods of individual authorities are attacked, we always find that there are several interested parties who wish to be heard in the defence, even although they may have nothing to say which is of any real interest to those who are merely concerned with general principles, and care little about personalities.

Weekly Notes.

Acts of Bankruptcy and Protected Transactions.

Except that it follows the decision come to after some hesitation by the late Mr. Justice Wright in *In re Lawford & Lawrence*, it is a little difficult to follow the grounds upon which Mr. Justice Buckley decided the case of *Ponsford, Baker & Co. v. The Union of London and Smiths Bank, Lim.*, which was recently reported in these columns. In general terms it may be said that the Bankruptcy Acts provide for the relation back of the trustee's title so as to enable many transactions to be avoided which, if confirmed, would leave the door open to abuse, and would be against the interests of the general body of the creditors of an insolvent estate. In particular, all persons having notice of an available act of bankruptcy are required to be especially careful in their dealings with the debtor, if they wish to avoid such losses as may arise in the event of the transaction being repudiated by the trustee. On the other hand, to avoid the pendulum swinging too far in the opposite direction, Section 49 of the Bankruptcy Act, 1883, protects *bond fide* transactions undertaken *without* notice. In 1900 Mr. Justice Wright held that where a firm had deposited certain cabs with A. to secure advances, and where A. (who at the time had notice of

an act of bankruptcy) returned the cabs to the firm upon repayment of what was due to him, A. was protected and was not liable to account to the subsequent trustee in the firm's bankruptcy, notwithstanding the fact that the trustee's title related back to a date prior to that of this transaction. Mr. Justice Buckley's decision appears to have been given under very similar circumstances, save that the creditor in this case was a bank, and the debtors a firm of stockbrokers who had deposited securities with the bank against a loan. Upon being notified of an available act of bankruptcy the bank declined to return the securities in its possession in exchange for the amount to which it was entitled, on the ground that under the circumstances they could not safely deal with the shares. Mr. Justice Buckley, however, held that the bank was wrong, and ordered it to deliver up the securities upon payment of the amount due. It is true that in this case the official assignee of the Stock Exchange was a plaintiff in the action; but, even allowing for that, we are unable to find any statutory authority for the decision here arrived at, that a *bond fide* transaction may be protected, notwithstanding the fact that the person other than the debtor who is a party thereto has at the time notice of an available act of bankruptcy committed by the debtor.

Deductions from Profits Assessable for Income Tax. We understand that on an appeal to the Enfield Income Tax Commissioners that board, considering themselves bound by a Scottish decision, held that a Nonconformist minister was not entitled to deduct from the amount of his assessment the sum of £5 as the estimated value of his study, on the ground that it was wholly, exclusively, and necessarily for the purposes of his profession. We are informed, however, that the Treasury Solicitor has stated that the Crown does not propose to contest the case, and that thus an allowance of this kind will for the future be permitted. Without expressing any opinion upon the merits of the case immediately under review, we may perhaps be allowed to repeat our opinion that the practice, which has so frequently been observed by the Board of Inland Revenue, of making allowances which are either not provided for by statute or have been held by a Court of law to be inadmissible, while doubtless intended to show a desire on the part of the Board to deal fairly with income-tax payers generally, is merely interpreted as a sign of weakness, and in no way diminishes the prevalent discontent underlying all income-tax assess-

ment. If the matter be viewed dispassionately it must surely be evident that most persons would greatly prefer to pay what is legally due from them, even although they may consider that the law works hardly in their case, rather than to merely pay what "a parcel of officials may instruct their underlings to collect." It cannot be too clearly borne in mind by all parties concerned that an allowance made to any individual must of necessity be laid upon the shoulders of *all other members of the community*; and there can be no justification for casting upon them that additional burden unless the Legislature, as interpreted by the Courts, has so provided. All non-legal allowances or abatements to individuals are of necessity *per contra* an illegal and unjustifiable imposition upon other members of the community.

The Life of a Bank Note. In the course of an action which was tried before Mr. Justice Bigham a short time since, an official from the Bank of England stated in evidence that the average life of a bank-note was from ten to eighteen years, but that the Bank had a note in its possession which had been in circulation for no less than 111 years. It is obvious that, in order to last for even the least of the periods named, the actual circulation of a bank-note cannot be of a very active description. The lower the denomination of the note, in the nature of things the more likely is it to change hands frequently, and therefore to become worn out at an early date.

Fictitious Claims against Testators' Estates. A case which came before one of the Metropolitan magistrates some time since, which resulted in the committal for trial of the prisoner on a charge of attempting to defraud the executors of deceased persons, raises a question of considerable interest with which all persons acting as executors would do well to be acquainted. It was alleged that in this case the prisoner had made a practice of forwarding small claims to executors who had recently proved wills, "for account rendered," and that this apparently represented his sole means of livelihood. Without expressing any opinion upon the case under review, it is, we think, only proper to point out that many firms carrying on an apparently legitimate business, and enjoying a perfectly good reputation, appear to suffer from strange aberrations of memory when making claims against the estates of deceased customers. Executors will in all cases do well to

require strict proof of tradesmen's claims; and, were that practice to become general, we venture to think that such claims would in many cases be reduced.

Bankers and their Customers. A correspondent of a contemporary points out that there is little or no authority for the suggestion which has been made that the disclosure of a customer's account by a banker is actionable—in the absence of proof of special damage. For instance, he says if a banker told an enquirer that A. B.'s account was usually in credit to the extent of £500 and such was really the case it is not easy to see on what ground an action could be maintained. If, however, the balance was said to be £100 whereas it was usually £1,000 it would not be difficult to prove special damage. To sum up, it is said that a banker is under no obligation to keep his customers' accounts secret, or that he is open to any action for disclosing them, but it is freely admitted that if any such practice of disclosure became at all general, branch bank managers would find themselves the recipients of "disquieting news from the board-room"!

Solicitors and Encroachment. The writer of a column of interesting notes in the pages of a daily financial paper rejoices over the "snub" administered to the Council of the Incorporated Law Society by a magistrate who dismissed a test case brought by the Society against a house agent on the ground that he had "held himself out as a solicitor." Into the merits of this case we cannot go, as we have no report of the facts, but the paragraph in question goes on to say that of recent years solicitors have been encroaching on the privileges and rights of all other professions to an extent which is open to severe criticism. Not only, he says, do solicitors frequently "hold themselves out" as estate agents, but they—or some of them—are prepared to act as Chartered Accountants, insurance agents, brokers, and what not. We do not know whether this complaint is founded on a specific instance, but, in general, we should say that, so far as the accountancy profession is concerned, the borderland is well defined, and but little poaching takes place on either side. The average solicitor knows enough to be aware when he is out of his depth, which is more than can be said of the average bank official, who will gaily accept any office of any nature so long as the

emoluments attaching to that office go into his private purse instead of that of his employer. A list of the surprising vocations carried on by these gentry in their spare time—and such a one could be very easily compiled from personal experience—would be amusing if not very illuminative.

Day and Night Bank. It seems as if the night and day bank notion is likely to become popular in the United States, for it is reported that another concern of this type is promised for Pittsburg. The capital is said to be 250,000 dollars issued at a premium, which will start the bank with a reserve of 62,500 dollars. The "Day and Night National Bank," as the institution will probably be called, will have a savings bank department included in its scheme.

Joint-Stock Curiosities. The statistics of the births and deaths of joint-stock companies are not particularly amusing reading, but a financial contemporary has been at some pains to unearth several eccentricities which are not without their instructive side. The variations in the proportion borne by the minimum subscriptions to the offered capital first claim attention. One company offered £2,998, and were content to go to allotment on a subscription of £5, while in another case £12,500 was offered, with a minimum of £7. With regard to underwriting, in some cases the whole capital is thus secured; rates of two to five per cent. are frequent for this service, but in other instances 10 per cent. and even higher rates are quoted. When big figures are found the commission is usually payable in shares—one share for every three underwritten, one hundred for every one-hundred and twenty-five, one ordinary for one preference, and so on. Some high cash commissions are, however, mentioned—40 per cent. in the case of a West African company, 50 per cent. in connection with a motor company, while a reconstructed mining company tops the list with 65 per cent. A schedule of the requirements as regards directors' qualifications furnishes some startling contrasts, since the range is from nothing at all to £17,500 out of £64,500 subscribed. Other heavy figures are holdings of £8,750 out of £55,950; £9,000 out of £71,300; and £9,000 out of £70,000. At the extreme end of the list we find £7 out of £110,000; £3 out of £5,689; while a theatrical concern went to allotment on £800 out of £8,000 offered for cash sub-

scription, the directors being only required to put up £4 between them. We wonder if any of our readers can add to this eccentric list from the store of their experiences?

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinions expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Elective Auditors and their Remuneration.

(To the Editor of The Accountant.)

SIR,—You deserve our thanks for publishing in full in your powerful paper the report of the Bexhill case regarding the pay of the Elective Auditor. The point which was decided was his pay, but it hinged upon the extent of the work he did, with the astonishing result that, if the decision is sound, a Town Council may keep back from the statutory auditor a large part of their accounts.

In October 1902 you published in your paper in full a Preliminary Draft Act, compiled by me, to regulate the accounts and audit of a municipal borough. Since then I have served for two years as Elective Auditor, and, if you will allow me, I will put before the ratepayers a few remarks and quotations from the Municipal Corporations Act, 1882, which will, I think, throw some light on the present case. Section 28 of that Act requires a Town Clerk to make a return to the Local Government Board of the "receipts and expenditure" of the corporation for the year in such form and containing such particulars as the Local Government Board direct, and if he fails he is liable, for each offence, to a fine not exceeding £20.

Now, that seems rough on the Town Clerk, but a previous section (26) requires the Treasurer to make up his accounts half-yearly, and within one month from the expiry of the term he must submit them, with the necessary vouchers and papers, to the Borough Auditors, who must audit them. After the audit the Treasurer must print a full abstract of the year's accounts. The Town Clerk has only to get the returns from the Treasurer, and, within one month after completion of the audit, send them to the Local Government Board; if he neglects that duty he is liable to fine. A "Treasurer" is one who has the custody of treasure, and it is a misfortune that the Act

Railway Rates. The increase in the burden placed on railway companies by excessive rates, while still apparent, is mainly due to higher poundage, and it is hoped that the strenuous efforts which have been made of late to obtain a reduction of the assessments will bear fruit during the current half-year. The following table is extremely interesting from a comparative point of view, but we should like to see "Rates" separated from "Taxes":—

Company	Rates and Taxes		Increase or Decrease
	1st half 1905	1st half 1906	
Great Central	£58,600	£59,900	+ 1,300
Great Eastern	154,500	158,700	+ 4,200
Great Western	300,500	315,000	+ 14,500
Great Northern	99,500	101,000	+ 1,500
Lancashire & Yorkshire ..	84,600	88,200	+ 3,600
London & North Western ..	285,400	290,300	+ 4,900
London & South Western ..	134,300	134,000	- 300
London, Brighton & South Coast	106,900	108,000	+ 1,100
Midland	224,800	239,300	+ 14,500
North Eastern	218,500	212,900	- 5,600
South Eastern & Chatham ..	151,000	146,400	- 4,600
Total	£1,818,600	£1,853,700	+ £35,100

Parcel Post Finance. The more popular features of the recently published Postmaster-General's annual report have already been pointed out, but it has been left for *The Financial News* to protest against the "enormous payment made to the "railway companies for their share in carrying out the "parcels post." We are told that in 1883, when this post was established, it was agreed that the railway companies should be paid 55 per cent. of the receipts on parcels carried by them for the Post Office, the remaining 45 per cent. being retained by that institution. It soon became obvious, it is said, that the railway companies had the better of the bargain, for the Post Office loses 10 per cent. and yet has all the trouble of collecting, packing, sorting, and delivering. Some little time ago it was suggested that the percentage should be altered to 60 per cent. to the Post Office and 40 per cent. to the railway companies, but nothing appears to have been done, and, as the matter is not referred to in the present report, one can only conclude that the old arrangement still exists.

should have made the Treasurer responsible for the accounts. It is bad administration, and fraught with danger, to unite the disbursing and the recording offices under one head, and in most of the smaller boroughs it is not. A Borough Accountant keeps the account, and the money is kept by a bank with the ordinary Bank Pass Book.

The remuneration of the auditor is a small question, but that of what are the accounts which the Elective Auditor must audit is of very great importance. The Act speaks of them as his—*i.e.*, the Treasurer's—accounts without any further qualification. The ordinary signification of that would be "all the accounts," and it is a mere quibble to say otherwise. But we are not left in doubt, for the Local Government Board Return made annually to Parliament—as mentioned above—is published as a parliamentary paper under the name of "Local Taxation Return." I have one before me. It shows the "receipts and expenditure" of all the English boroughs under 16 or 17 heads, and the last one, as if to catch the last penny, is "Other purposes." It does not appear from your report of the proceedings in Court that this was mentioned. Bexhill appears to be one of those shady boroughs where paid professional auditors are appointed in addition to the statutory auditors elected by the ratepayers; but such appointment is distinctly illegal, and any payment made to them is liable to surcharge. The Elective Auditors should report it as such to the Town Council and to the ratepayers.

Section 19 of the Act of 1882 gives a corporation power to appoint such officers as they find necessary. They could appoint and pay extra "accountants" if the others were inefficient, but not statutory "auditors." What does the Town Clerk of Bexhill say to this?

It does not appear that there has been any formal refusal to produce books; the wish of the Council seems rather to have been to belittle the Elective Auditor's duties and his pay. Had there been, his remedy would have been, under Section 233 of the Act, by summons from a Police Court against the obstructors.

HENRY P. BABBAGE.

Cheltenham, 15th August 1906.

Forged Certificates.

(To the Editor of The Accountant.)

SIR,—The highest tribunal in the land has spoken the last word in the *Great Fingall* case, and the law

has been expounded, perhaps correctly, but, with all respect to the great weight of judicial authority upon which the decision rests, I submit that justice has not been done.

Lord Macnaghten no doubt thought he showed "a very pretty wit" when he said: "I could have understood a claim on the part of the appellants if it were incumbent on the company to lock up their seal and guard it as if it were a dangerous beast, and as if it were culpable carelessness on the part of the directors to commit the care of the seal to their secretary or any other official"; but it appears to me that this is the very crux of the whole case, and yet it is thus lightly brushed aside without discussion or consideration.

I have always understood that the principle of law acted upon in questions between two innocent parties as to which should bear a loss occasioned by the fraud of a third was that, if either of them had been guilty of any negligence which facilitated the fraud, they must bear the consequences, and were estopped from denying their liability. Even if this is not the law, it is sound common sense (which the House of Lords, as a rule, rather prides itself in bringing to bear in its decisions), and in this case the fraud could not have been committed if the directors had adopted the ordinary business precaution of having the custody of the seal so arranged for that it could not be used except by at least one other person acting with the secretary; otherwise what is the object of duplicate and triplicate keys, and articles providing for the use of the seal only in the presence of, or pursuant to, resolution of the directors?

I have not the *Bank of Ireland* case at hand to refer to, but a decision given half a century ago—before the Companies Act existed—can have very little bearing upon the proper mode of conducting a company's business at the present time, and most business men will be inclined to say that it was "culpable carelessness on the part of the directors to commit the care of the seal to their secretary" without any safeguard for its proper use.

London, 13th August 1906.

H. W. M.

Basis of Purchase of Accountancy Practice.

(To the Editor of The Accountant.)

SIR,—I should be much obliged if you could inform me as to what number of years' profits the purchase-price of a partnership is usually based?

In particular I desire to know the number of years'

profits usually paid with regard to a small practice established about ten years, and consisting almost entirely of audits, the income for a half-share being from £200 to £300.

Thanking you in anticipation,

Yours truly,

August 25th 1906.

T.

Brewery Audit Fees.

(To the Editor of The Accountant.)

SIR,—The enclosed list from the "Brewery Companies' Manual, 1905," of some brewery companies, with the audit fee they pay, may be of some interest to your readers.

You will notice one brewery with a capital of £391,000 gets its audit for £50, and another with a capital of £383,000 pays a hundred guineas.

I suppose the work would be about the same in each case.

Yours truly,

August 13th 1906.

F.

	Capital and Debentures £	Audit Fee £
Watney, Combe, Reid & Co., Lim. ..	14,710,820	750
Bristol Brewery (Georges & Co.), Lim. ..	744,000	210
Bristol United Breweries, Lim. ..	745,000	210
Hull Brewery Company, Lim. ..	595,511	157
Massey's Burnley Brewery, Lim. ..	383,445	105
Bell & Co., Lim. ..	580,000	84
Oakhill Brewery Company, Lim. ..	195,000	84
Clarkson's Old Brewery, Barnsley, Lim. ..	235,563	80
Colchester Brewing Company, Lim. ..	566,525	78
Jennings Brothers, Lim. ..	168,030	57
Hudson's Cambridge and Pampisford Breweries, Lim. ..	125,857	52
Phillips (Thomas) & Co., Lim. ..	196,326	52
Workington Brewery Company, Lim. ..	227,000	52
Stocks (J.) & Co., Lim. ..	391,000	50
Brewery and Commercial Investment Trust, Lim. ..	253,145	42
Glasson's Penrith Breweries, Lim. ..	85,400	40
Octagon Breweries, Lim. ..	178,250	21
Spencer's (G. & T.) Brewery, Lim. ..	108,900	21

Practical Accounting.

(To the Editor of The Accountant.)

SIR,—Will you kindly advise me as to the best book obtainable (modern and reliable) on Practical Accounting—one that would give an outline of a complete set of books from the commencement to an auditor's signature on the Balance Sheet, &c. &c.

Thanking you in anticipation,

Yours faithfully,

25th August 1906.

ENTERPRISE.

Priorities in Winding-up.—Debenture-holders and Apprentices.

(To the Editor of The Accountant.)

SIR,—Would you be so kind as to answer me the following query, viz. :—

In a compulsory liquidation of a limited company, where a receiver for the debenture-holders has been appointed previous to the liquidation and continued in office as receiver and liquidator, if there are only sufficient assets in hand to satisfy the claims of the 1st debenture-holders (creating a floating charge on assets previous to appointment of receiver), are premium apprentices to the company entitled to be paid in full before a composition is paid to the 1st debenture-holders (under the Payments in Bankruptcy Amendment Act, 1897), or is the liquidator entitled to set aside the claims of the premium apprentices and leave them to rank after the debenture-holders?

Can you quote me any case which has come before the Court, to illustrate your answer?

What would be the procedure in voluntary liquidation?

Yours faithfully,

21st August 1906.

F. V. BRADFORD.

Auditors' Report.

(To the Editor of The Accountant.)

SIR,—I shall be glad to have the opinion of yourself and your readers on the enclosed auditors' report, which appears at the foot of the Balance Sheet of a company in which I am, unfortunately, a shareholder. I may say that "the remarks" referred to appear to have figured in the report on the half-year's accounts to June 1903, since which date the form enclosed has been used!

AUDITORS' REPORT.

"We report to the shareholders that we have audited the above Balance Sheet and Profit and Loss Account. Subject to the remarks contained in our previous reports respecting the item included in the assets entitled 'Plant Suspense Account,' we are of opinion that the Balance Sheet is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs as shown by the books of the company."

I am, yours faithfully,

August 29th 1906.

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The Bank of England, the Bank Reserve, the Bank Rate and Foreign Exchanges.

By JOHN S. BARTON, A.I.A.V.

A paper read before members of the Wellington (N.Z.)
Accountant Students' Society.

OUR lecture this evening bears a somewhat formidable title and is one that grew gradually. I was asked if I would deal especially with the matter of Foreign Exchanges, and consented to do so. Although the request to deal with this subject implied rather that I should approach it from our own standpoint, and deal with the matter particularly as it affects Australasia, it was impossible to take such a limited view. London, as the financial centre of the world, is to all other centres of commerce what the sun is to the rest of the solar system, and one might as well attempt to give a description of or to deal with the light of the moon without mentioning the sun, or to start with the moon in giving a description of the sun, as to start at the Australasian end in dealing with the matter of foreign exchanges. Then, there is such a vital connection between the fluctuations in the various exchange rates in London and the movements in the Bank of England rate of discount, that the necessity of dealing with the latter quickly became apparent. To take one step further, it would be impossible to offer any description of the Bank Rate without considering it as an instrument for preserving the stability of the Bank Reserve, and, having got so far, it is but another step to go right back to bed-rock and deal with the Bank of England. Having made this decision I have every reason to be pleased with the roominess of the subject, for one feels that he can breathe freely and almost grandiloquently when he is dealing with millions as the ordinary man deals with hundreds.

If in presenting my figures to-night I happen to make a mistake of a million or two in my additions or other calculations it will not make any appreciable difference, and I am sure none of you will notice it unless you happen to check the additions very closely.

In tracing the Bank of England back to its source I was reminded of the couplet which used to be drilled into us as boys by an old Scots schoolmaster:—

"I climbed up fortune's ladder and breathless did not stop,
Until I reached the end and found a Scotchman at the top."

And so in dealing with this subject, if you only delve deep enough (to change the figure) you will come upon a Scotchman as the foundation stone of the structure, the immortal William Paterson. He was apparently a very shrewd man at any time, and on this occasion his wits

were sharpened by necessity; his was a scientific scheme for raising money for national purposes in place of the brutally simple methods adopted by the Sovereign of his day.

Prior to this date (1694) the goldsmiths were the bankers of England; they received money on deposit, and lent it out again at interest, in addition to carrying on their ordinary trade of buying and selling gold. The goldsmiths in turn deposited their money with the Treasury on the security of the public revenue, and this money was repayable with interest. But the King, under the pressure of necessity—the necessity of carrying on the war with France—had an inconvenient habit of suspending the strictly legal method of dealing with this money, or perhaps we had better not say he suspended it, let us rather say he gave it an "indulgent interpretation," this term is more up to date and better understood by New Zealanders; to put it into plain English the King used to grab whatever he could lay his hands on and leave the goldsmiths lamenting. This was in addition to taxation which had reached the limit of endurance, and the King was contemplating the "nationalisation" of the wealth of some of the wealthier citizens who had not sufficient public spirit to voluntarily offer their estates. Then William Paterson came forward with his suggestion, which was the formation of a public joint-stock bank, with a permanent paid-up capital, out of which money could be advanced to the Government as required in return for a charter granting certain powers and privileges. His scheme was that one million two hundred thousand pounds should be voluntarily subscribed by the public, and that the subscribers should be incorporated as the "Governor and Company of the Bank of England." The Government was to pay 8 per cent. on all money lent to it and an allowance of £4,000 for administration expenses, the whole charge totalling £100,000 per annum. For, be it noted, the Bank immediately lent the whole of its paid-up capital. Thus we have the origin of a very old joke, wherein the banker asks, "How much do you want?" and the customer retorts, "How much have you got?"

The one million two hundred thousand pounds capital was subscribed in a few days, and the charter was granted for ten years, incorporating the company and giving it power to issue notes, payable on demand to an amount not more than its paid-up capital. The money was then handed over to the Exchequer, and was the first instalment of an amount which now stands at eleven millions and fifteen thousand pounds, under the heading of the Government Debt, one of the chief assets of the Bank of England to-day.

Although the original charter was granted for a period of ten years only, it has since been renewed from time to

time and the original terms have also been considerably varied. By an Act of 1708 a monopoly of banking was practically granted. This Act provided:—

"That during the continuance of the said corporation of the Governor and Company of the Bank of England it shall not be lawful for any body politic or corporate whatsoever, created or to be created (other than the said Governor and Company of the Bank of England), or for any other persons whatsoever, united or to be united in covenants or partnership, exceeding the number of six persons, in that part of Great Britain called England, to borrow, owe, or take up any sum or sums of money on their bills or notes, payable at demand, or at a less time than six months from the borrowing thereof."

A favourite simile to-day when we wish to express our idea of the absolute safety of any venture or undertaking is, "As safe as the Bank of England," and fortunately there is no cause to cavil at this simile, for there is no other human institution so well entitled to be used as the emblem of security. But it must not be supposed that it has reached its present position without passing through troublous and anxious times, for there have been several crises in its history which have seemed to threaten its very existence—times when the Government has had to come to its aid and by suspending its charter, and substituting an arbitrary provision for the time being, barely saved the situation. I cannot do more than hint at these to-night.

The first occurred in 1797, and was due to the effects of a long and protracted war, and the consequent financial stress in England. Its cash reserves were so depleted that suspension of payments seemed almost inevitable. In this plight the directors of the Bank of England waited upon the Government of the day and invoked their aid, placing the whole position before them. The result was an Order in Council dated 26th February 1797, which practically made the issue of the Bank of England notes by the Bank itself a legal tender. Straker, in his book "The Money Market," describes this as a very drastic measure to take, but desperate diseases require desperate remedies, and in this case the result was entirely satisfactory. This restriction on the issue of gold by the Bank was not entirely withdrawn until the year 1823.

You may wonder how it is that the Government should require to come to the rescue of a private institution in this way. The reason is that then as now the credit and financial standing of England itself is so bound up in the Bank of England that they stand or fall together, and a disaster to the Bank of England would almost inevitably mean financial ruin to England herself.

In the year 1826 the Bank of England established branches throughout England, and gave up its monopoly

of the right to issue notes in districts outside the sixty-five mile radius from London.

The Bank's Charter came up for renewal again in 1833, and on this occasion considerable modification in the terms of the Charter was made, the Bank's monopoly of joint-stock banking being practically ended at this date, although the sole right to issue notes within sixty-five miles of London was still granted to it, and by the same Act the Bank of England notes were made a legal tender throughout England except by the Bank itself or its branches. It was at this stage of the Bank's history that the directors enunciated the principle that they should keep on hand gold and bullion amounting to one-third of their liabilities and the balance in securities, but unfortunately they did not adhere to this, with the result (arising from this as well as from other causes) that prior to 1844 they had to face the most severe crisis of their history. There had been a most marked depression for many years and the Bank's reserve of cash had been gradually depleted. In September 1839 we find that the proportion of securities to cash, instead of being as three to one, was as ten to one, and the drain still continued. To ward off disaster the directors were arranging to borrow from three to four millions on the Continent. At this point the Government of the day did not wait to be consulted, but appointed a Parliamentary Committee to inquire into the working of the Bank and the cause of its position at the time. A Parliamentary Committee must have worked a little more zealously then than at the present time, for we find that they completed their work in the same year as that in which they were appointed, and the result was that they condemned the principles on which the directors were conducting the affairs of the Bank. However, the Bank's Charter did not expire until 1844, and apparently the Government did not wish to forcibly interfere before that date.

On the expiry of the Charter Sir Robert Peel's Government took the matter in hand, and on the 4th day of July 1844 an Act was passed renewing the Charter with modifications and restrictions, and this Act is practically in force to-day.

I copy the following *résumé* of this Act from a book which I have already referred to, Straker's "The Money Market."

"I. The Issue Department and the ordinary Banking Department of the Bank of England were to be entirely separated as from the 31st of August 1844.

"II. On such separation taking place securities to the value of £14,000,000 (including the debt due to the Bank from the Government) were to be transferred to the Issue Department, together with so much gold coin and bullion that the total so transferred should equal the

total amount of notes then outstanding. Thereafter (with the exception noted below) the Issue Department must not issue any notes in excess of a total of £14,000,000 except in exchange for gold coin or bullion.

III. The Issue Department might not at any time hold more silver than one-fourth part of the gold held. (As a matter of fact, the Issue Department holds no silver.)

IV. Notes might be demanded from the Issue Department by any person in exchange for gold at the rate of £3 17s. 9d. per standard ounce.

V. If any banker having the power of issue on the 6th May 1844 should relinquish such issue, the Issue Department may be authorised to increase its issue of notes against securities to the extent of two-thirds of the issue so relinquished; but all the profits on such increased issue against securities were to belong to the Government.

VI. The Bank must issue a weekly statement of the position of both its Issue and Banking Departments, in a prescribed form.

VII. Bankers having the right to issue their own notes on the 6th May 1844 might continue such issue under certain conditions, and to an agreed amount; but no provision was made compelling such bankers to keep any reserve either in cash or securities against their issues. If any issue lapsed from any cause, it could not be resuscitated, and no institution could acquire the right of issue in the future.

VIII. Banks consisting of more than six partners, though within the sixty-five mile radius of London, might draw, accept, or endorse Bills of Exchange not being payable to bearer on demand."

I have had mimeographed, and there are available for you to-night, a number of schedules of figures which I considered necessary to enable you to follow me closely and with interest. The first of these consists of the first return issued by the Bank in accordance with the Act of 1844, which I have described, and for the purposes of comparison I give the Bank return for the week ended 31st May 1905.

ACCOUNT OF LIABILITIES AND ASSETS OF THE BANK OF ENGLAND

For the Week ending 7th September 1844.

Dr.	ISSUE DEPARTMENT.	Cr.
	£	£
Notes Issued	28,351,295	Government Debt .. 11,015,000
		Other Securities .. 2,984,900
		Gold, Coin, and Bullion 12,657,208
		Silver Bullion 1,694,087
	<u>£28,351,295</u>	<u>£28,351,295</u>

Dr.	BANKING DEPARTMENT.	Cr.
	£	£
Proprietors' Capital ..	14,553,000	Government Securities 14,554,831
Rest	3,364,729	Other Securities .. 7,835,616
Public Deposits	3,630,809	Notes 8,175,025
Other Deposits	8,644,348	Gold and Silver Coin.. 857,765
Seven Day and other Bills	1,030,354	
	<u>£31,423,240</u>	<u>£31,423,240</u>

THE BANK OF ENGLAND RETURN.

Week ending Wednesday, 31st May 1905.

(*Vide Evening Post*, 3rd June 1905.)

Dr.	ISSUE DEPARTMENT.	Cr.
	£	£
Note Issue	54,397,000	Government Debt .. 11,015,000
		Other Securities .. 7,434,000
		Gold 35,948,000
	<u>£54,397,000</u>	<u>£54,397,000</u>

Dr.	BANKING DEPARTMENT.	Cr.
	£	£
Proprietors' Capital ..	14,553,000	Government Securities 15,750,000
Public Deposits	11,609,000	Other Securities .. 28,416,000
Other Deposits	41,614,000	Notes 24,897,000
Rest	3,019,081	Coin 1,939,000
Seven Day and other Bills	206,919	
	<u>£71,002,000</u>	<u>£71,002,000</u>

The leading items of the Bank of England Return afford the following comparison :—

	This Week	Last Week	Last Year
Bullion	35,948,000	35,542,000	30,918,000
Reserve	26,836,000	27,148,000	22,590,000
Note Circulation ..	29,500,000	28,852,000	28,708,000
Deposits	53,223,000	51,934,000	48,642,000
Proportion Reserve to Liabilities ..	50'32	52'15	46'33

Money Market.

The market rate of discount for best three months' bills is 1-16th lower, at 2 1-16th per cent. The Bank of England rate is 2½ per cent., as against 3 per cent. on 9th March.

If you look at the total note issue as shown in the return for the 7th September 1844 you will see that it was exactly secured by assets which are grouped under four headings. The first two, the Government Debt and Other Securities, total £14,000,000 exactly, and this is in compliance with clause No. 2 in the foregoing *résumé* of the Bank Act of that year.

If you now transfer your attention to the return given under the date of 31st May 1905 you will see that the total amount of the note issue against Government Debt and Other Securities is increased to about 18½ millions, and this appears to conflict with the clause referred to, which

provides that it must not exceed £14,000,000. The explanation will be found on reference to clause 5 of the *résumé*, where we read that the Issue Department may increase its issue against securities in the event of any banker having the power to issue on the 6th of May 1844, subsequently relinquishing such power since that date. The Governors of the Bank of England have availed themselves of that right to the extent of about 4½ millions. You will notice that the Government Debt is the same in 1905 as it was in 1844, the apparent reduction of £100 is due to the fact that round figures only are cabled to the Colonies.

The rest of the note issue, about £36,000,000, is against gold in the coffers of the Issue Department. Please note that this enormous liability of the Issue Department, £54,000,000, is payable on demand, and it almost staggers our imagination. Some of my hearers with a turn for statistical figures might calculate how long it would take to exhaust or to repay this liability if it could be done at the rate of £100 per minute during five hours per day, and I think they would be surprised at the result. Although this liability is such an enormous one, a glance at the assets of the Issue Department shows that it is perfectly safe, and could be met with ease. As a matter of fact, the active circulation—that is, the notes in the hands of the public—amount to £30,000,000 only (this is obtained by deducting the notes in the hands of the Banking Department) and this could be met out of the gold reserve of the Issue Department without disturbing its securities.

The Issue Department is compelled to issue notes in exchange for sovereigns, for gold bullion, whether in bars or in the shape of foreign coins, and it accepts the gold at the rate of £3 17s. 9d. per ounce.

Turning our attention to the Banking Department, and taking the assets' side first, we note that Government Securities amounting to nearly £16,000,000 are held. These consist of Government Stocks of various kinds, and form a liquid asset which at the same time earns a steady if small income.

The heading "Other Securities," include the Bank's investments, other than those in Government paper, and includes its loans and its advances to its customers (by discounting bills), bill brokers, and others.

The third item is Notes, £25,000,000, and these are notes which have been received from the Issue Department in exchange for securities, and, as we have already seen, they are secured to the extent of twenty shillings in the pound.

The last item is Coin, which figures at close upon £2,000,000.

Turning to the liabilities' side, we see that the Proprietors' Capital is stated at £14,553,000, and you will notice that this is unaltered since September 1844. This

seems a tremendous amount of paid-up capital, although I think I am right in saying that it is not so large as the capital of the Bank of France.

The public deposits amount to £11,609,000, and this item includes the accounts of the various departments of His Majesty's Revenue. Other deposits, £41,000,000, are the deposits of the Bank's customers, comprising private individuals who have an account at the Bank, and other bankers, for you must remember that the Bank of England is the Bankers' Bank.

The last item is called the "Rest," and it corresponds with what is usually called the Reserve Fund in other institutions, although the amount given here is said to include "Seven Day Bills." This may be described as Bank drafts payable at seven days' sight, issued to customers for their convenience. The Reserve, or "Rest," after deducting these bills on 31st May 1905, was £3,019,081. This does not seem a very large Reserve Fund in view of the tremendous figures we have been dealing with, but I would point out that the Bank premises, which are situated in the very heart of London, on what is perhaps the most highly valued block of land in the world, are not included amongst the Bank's assets, and therefore they constitute a secret reserve to the amount of their value.

I would like to point out here also that the profits earned by the Bank are not sensational, for a cutting which I have before me, taken from the *Mercantile Record* of April this year, gives an account of the meeting of the general Court of the Bank of England, and shows that the profits for the half-year just ended were £658,000, and this provided for a dividend of 4½ per cent. for the half-year.

The Bank Reserve.

This is the next item that claims our attention, and I will proceed to its definition straightaway.

What is known as the Bank Reserve is obtained by adding together the notes and coin of the Banking Department. We have seen that the notes are fully secured, and as a matter of fact are as good as gold, therefore the notes and coin of the Banking Department may be viewed as its gold reserve available for payment of its liabilities.

If you look at the table given below the returns for May 1905, you will see that the reserve is quoted at £26,836,000, and you will see that this agrees with the total notes and coin shown on the assets' side of the Banking Department. This reserve fluctuates considerably, it increases and decreases as the result of ordinary and anticipated causes. For instance, it invariably increases at about the end of March in each year, as the result of the fact that the collection of taxes is made at this time of the year, and the money flows out of John Bull's pocket into the Bank of England to the credit of the Public Deposits Account. Then, again, it is a remarkable fact that the exodus fr

London in August, when the whole world and his wife are going away for their annual holiday, causes an appreciable drop in the reserve, due to the holiday-makers taking away sufficient gold to cover their expenses. These fluctuations are expected, cause no concern, and call for no action on the part of the Bank authorities. But the gold reserve is very susceptible to attraction by foreign bankers, and is apt to be withdrawn for use in foreign countries, when rates of interest are higher and money more valuable on the Continent than in England, foreign bankers will withdraw their reserves from England and invest it on the Continent. Again, if the balance of trade be against England—that is, her imports more than her exports, plus interest, freight, &c., due to England—gold will be exported to settle the balance of trade bills. This exportation of gold from England, and the consequent decrease of gold in the Bank Reserve, must be stopped if possible, for if allowed to continue to any marked extent it would result in a shortage of gold in England and a shaking of credit if the reserve is allowed to get too low. You will notice by a reference to the table already given that at the date of the latest return the reserve was 50 per cent. of the liabilities of the Bank. If this were allowed to drop to, say, 20 per cent., it would affect the credit of every bank in England.

But you may say this is undoubtedly desirable, but how is it to be prevented? If foreign bankers wish to withdraw their gold from England to employ it in more profitable investments, who shall gainsay them? And if the balance of trade is against us, must we not pay our bills? This brings us to consider the next subject mentioned.

The Bank Rate.

This is the instrument by which the Governors of the Bank of England manipulate the money market to preserve the stability of the Bank Reserve. At the foot of the Bank return given above you will see that the Bank rate is $2\frac{1}{2}$ per cent. This is the rate at which the Bank is prepared to grant loans and discount first-class bills for short periods—not exceeding seven days. The Bank Rate is generally a fraction higher than the outside rates charged for loans, and it also governs or affects the interest which is allowed on Deposit Accounts, these latter being as a rule $1\frac{1}{2}$ below the Bank Rate. If the Governors of the Bank of England find that the reserve is getting too low they raise the rate, and the immediate effect outside is the raising of rates for loans and overdrafts and an increase in the amount of interest allowed on deposits. The former prevents or discourages speculation and restricts legitimate trade and enterprise, and causes money to be left in the Bank that would otherwise be used in business ventures. The raising of the rate of interest allowed on deposits attracts money to the Bank. Then, again, a high Bank Rate makes England a good

market for money and discourages the export of gold to the Continent or to other countries, or if it is raised sufficiently will even attract gold to England. It will also turn the exchange rates in favour of England, and may raise them to the point at which gold will be imported into England. It sets up a severe competition for investment bills, which in amount will quite overshadow ordinary trade bills. It is just here that we see the point of connection between the Bank Rate and the question of foreign exchanges.

Foreign Exchange.

This term arises, and is used in considering the necessity for and the method of settling international debts by means of bills of exchange.

Debts arising out of trading and other transactions between citizens of different countries are expressed in the moneys of the respective countries, and in seeking a settlement of these debts the relative values of the standard coins of each country must be arrived at. Therefore the first thing to be done is to ascertain the relative value—taking one factor only into consideration—and that is the amount of standard gold in each. This is not a difficult calculation, and it gives us what is known as the “mint par of exchange.” I am speaking now of countries with a gold standard of coinage.

To put it in another form: If the only difficulty were that coins of foreign countries are minted in different forms from ours, called by different names, and that these unfamiliar names are quoted as denominating the values of goods, then a simple arithmetical calculation would give us a fixed table of relative values, provided that the same metal were used in making the coins. Surely, if an impecunious athlete can have the exact value of his champion long jump medal expressed in pounds, shillings, and pence, there should be no difficulty in obtaining a quotation for a bill of exchange payable in francs or dollars, if we leave out of account the cost of collecting the same. And this will give us our starting-point.

I have referred to the mint par of exchange, and this term means the relative value of the coins of different countries, taking into consideration only the amount of standard gold contained in the unit of value of each currency. For instance, the mint par of exchange between France and England may be thus stated:—

£1 stg. ... 25.22fr.

In other words, to multiply these amounts by a hundred to get rid of the obnoxious decimal point, I would say that one hundred English sovereigns are equal to 2,522 francs. Dealing similarly with the mint par of exchange with other countries we find that 100 British sovereigns are worth 486 dollars of the United States of America, or 2,043 marks in Germany. If we had to consider the mint par of exchange only there would be very little trouble in the question of

foreign exchanges, for with these rates before us it would be a very simple matter to express a given value in the coinage of any country having a gold standard. But this is not so, the exchange rates are continually varying. We have to consider what is called the "Course of Exchange," or the variable rates of exchange.

If we may suppose for a starting-point that to-day a bill drawn on a French banker for 2,522 francs is worth £100, we might find that to-morrow or next week it is worth only £98 18s., or possibly that it is worth £100 2s. These variations are always expressed in the same way—namely, the number of francs that equal the British sovereign, and these may range from about 25.12 to about 25.32; in other words, according to the state of the money market and the exchange rates, 100 sovereigns in London may buy a French bill for any number of francs ranging from 2,512 to 2,532.

But what causes these variations? I shall briefly indicate two of the causes. The first is the relative indebtedness of the two nations arising out of their trading relations, the difference between total exports and imports and taking into account freight and interest due and money lent. If the two nations could be viewed as two huge combines, and the result of all transactions put together was that England owed France a large balance on account, the balance of trade would be said to be against England. It seems to me that if this were the only factor in fixing exchange rates the Bank Rate would possess little or no potency in affecting such rates and the final settlement would have to be made by shipping gold from London to Paris. I would, therefore, mention another cause of the variations in the exchange rates—namely, the relative value of money in the two countries. This is the focal point of our subject to-night. We have seen the Bank Rate as the index of the value of money within England, and if I can make clear to you to-night how the relative value of money in England and other countries affects the exchange rates I shall have fastened the last coupling of our seemingly disjointed subject.

I find it necessary now to point out that there is a limit to the possible variations in the exchange rates, and I must deal with this very briefly.

Gold could be transported across the Channel at a cost of about 8s. per cent., and this marks the limit in the variation of the exchange rates, for it is obvious that if the cost of settlement of an account by means of bills of exchange exceeds 8s. per cent. settlement would be made without recourse to bills by sending gold.

Let us suppose that John Bull sends to Johnny Craupaud goods worth £100. The Frenchman, on receipt of the goods and the invoice, goes to his banker and buys a draft for £100, and as the exchange rates at the time are 25.17 francs he purchases this bill for 25.17 francs, and remits it

in settlement of the debt. This is very cheap for the Frenchman, and he says London bills are at a discount! I have shown you that the mint par or normal rate of exchange would be 25.22 francs, but from some cause or other the Frenchman has saved 5 francs in making this settlement. Let us suppose that six months later the transaction is repeated, and again John Bull sends £100 worth of goods. Once again our Frenchman goes to his banker to purchase a draft for £100, and the banker quotes the rate at 25.32, which means that the purchaser must pay 25.32 francs to affect a settlement. The same result would be arrived at if instead of waiting for the Frenchman to remit a draft John Bull drew on him, for I would point out that exchange rates are quoted in London at the same rates as in Paris. In each case John Bull wants to draw for such number of francs as will produce £100 on being negotiated in London, and his bills would be for 2,517 francs and 2,532 francs respectively, which amounts must be paid by the Frenchman on presentation of the bill. More than 2,532 the Frenchman will not pay, for it would suit him equally well at this point to send gold. Having given this illustration I will now submit to you a list of exchange rates such as are published in London from day to day showing the course of exchange. These rates are fixed at the Royal Exchange, and represent the price for the day arrived at by bill brokers and others as the natural result of supply and demand. We shall confine our attention to the Paris rates, and I would now call your attention to the fact that two rates are supplied—namely, a "Cheque" Rate, which is known as the "Short Exchange," and the "Three Months' Rate, which is known as the "Long Exchange," and you will notice a considerable difference between the two.

LONDON COURSE OF EXCHANGE.

Tuesday, 8th September 1903.

—	Time	Prices as negotiated this day	
		From	To
Amsterdam, Rotterdam, &c.	short	12.06½	12.07½
Ditto ditto	3 months	12.3½	12.4½
Antwerp, Brussels, &c.		25.37½	25.42½
Paris	Cheques	25.17½	25.18½
Ditto	3 months	25.32½	25.37½
Marseilles, Lyons, &c.		25.32½	25.37½
Zurich, Basle, &c.		25.35	25.40
Hamburg, Berlin, and German Bank Places		20.58	20.62
St. Petersburg		24½	25½
Moscow		24½	25½
Vienna, &c.		24.17½	24.22½
Madrid		34½	34½
Other Spanish Bank Places		34½	34½
New York	Demand	48.6½	48.7
Ditto	60 days	48½	48½
Rome and Italian Bank Places	3 months	25.40	25.45
Lisbon and Oporto		42	42½

Suppose that on the basis of the above table John Bull had to remit £100 to a friend in Paris on the 8th

September 1903, his £100 would buy a bill payable on demand for 2,517 francs, or a bill payable at three months' sight for 2,532 francs. If he sent the latter his friend could discount it in Paris at current rates and the net proceeds would be 2,517 francs. Therefore, there is absolutely no difference in the amount which John Bull would pay, or in the number of francs which his friend would receive, because the difference between the short rate and the long rate is based on the discount rate in the country where the bill is payable. Any alteration, therefore, in the Bank Rate in England will affect the difference between the long and the short rates of exchange. A high Bank Rate in London will increase the difference between the short exchange and the long exchange; for instance, we might imagine the short rate between Paris and London to be 25.22, and in consequence of a high discount rate in London the long rate is 25. The effect of this would be to encourage foreign bankers, who, by the way, are always on the look-out for such a state of affairs to invest in English bills. There would be very eager competition for London bills at the long rate, for a Paris banker with money to invest would seek to buy London bills at 25. He would hold these for three months until they matured, and then, provided the rate did not alter, he would sell them at the short rate—namely, 25.22. In other words, he would buy a bill for £1,000 for 25,000 francs, and three months later he would sell it for 25,220 francs, his profit being 220 francs. Seeing that this profit, or difference in the rates, is based on a high Bank Rate in England, which is much higher than the ruling rates for money in Paris, you can quite understand the eagerness of Parisian bankers to purchase these bills and invest their money to advantage. And it is this eager competition for investment bills that will affect the exchange rates in England's favour, for when bills on London are eagerly sought, prices will harden, and the short rate may be expected to move in favour of England, and may go as high as, say, 25.30. This movement may be sufficient to overcome the opposite tendency as the result of balance of ordinary trading operations, and it is precisely in this way that the Bank Rate affects exchange rates and causes them to move in a direction favourable to England. If persisted in it will even raise the rates to the point when gold will commence to flow into England, and the rates are then said to touch specie point.

Exchange Rates between Australasia and England.

I find that my time has gone, and I must deal very briefly with this portion of the question.

In some respects it is fairly simple, for there is no currency question to complicate it; there is no competition for investment bills; in fact, there is no great competition for trade bills, for nearly all the purchase and

sale of bills is conducted by the banks, who have formed a ring or combine and who fix uniform prices.

The quotations are made, not in relative amounts, but by quoting discounts or premiums at certain rates per cent. for buying and selling trade bills and bank drafts. In fixing these rates there are several points to be taken into account. The time occupied in transit makes interest an important factor in this connection. It may be of interest to point out that recently, when the Australasian mail service was in rather a chaotic state, a cablegram stated that one effect had been an alteration in the exchange rates. The prices of our staple products also affect the exchange rates, as they have such an intimate connection with the balance of trade between us and the home markets. The ruling rates for money in the Colonies must also be considered. Let us take the Wellington rates on London at present. They are:—

	Buying	Selling
Sight ..	Par	.. 12/6 prem.
30 days ..	7/6 per cent. dis.	.. 7/6 prem.
60 days ..	12/6 per cent. dis.	.. 2/6 prem.
90 days		

Please understand that these are given from the Bank's standpoint, and when we speak of the selling rate we mean the rate at which the Bank will sell a draft on London. I have known this to cause confusion to students often, for naturally, looking at the thing from their own standpoint, and seeing that they intend to buy a draft from the Bank, they think of it as a buying rate. If I wish to obtain a draft payable in London for £100 I must pay £100 12s. 6d. for it, if it is to be payable at sight. In other words, the Bank will sell me a bill for £100 at a premium of 12s. 6d. If, however, a draft payable in London at thirty days' sight will suit me it will be sold at a premium of 7s. 6d. per cent. only, whilst a bill payable at sixty days' sight may be obtained at a premium of 2s. 6d. per cent.

See if I can make clear my statement that the time occupied in transit makes interest a factor in fixing these rates, and, as I am speaking to accountant students, it should be easy to explain the entries made by the Bank. When I purchase a sight draft for £100 I pay £100 12s. 6d. and the entries made by the Bank are:—

Cash Account *Dr.*, £100 12s. 6d.

Cr. Exchange Account, 12s. 6d.

Cr. London drafts in transit, £100.

About a month later, on the day when Wellington's advice of this transaction reaches London, an entry is passed crediting "London Office" in current account and debiting "London Drafts in Transit." This entry will increase the balance of London Office Account (a liability) by £100, and, of course, interest is charged on this balance between the two offices.

In the present instance you will notice that Wellington Office has had the use of the £100 for a month without interest. If, however, I purchase the sixty days' draft I must pay a premium of 2s. 6d. The same entry is made as before, except that exchange is credited with 2s. 6d. only. But it is about three months before the entry is passed transferring the £100 from "London Drafts in Transit" to "London Office" Account, and, therefore, three months in all before interest starts to run in favour of London. You will see therefore that the difference in exchange represents interest at the rate of about 3 per cent. per annum. But suppose that instead of wishing to send a draft to London I wish to draw on a firm in London in connection with a shipment of wool. I receive my shipping documents and attach them to a bill of exchange for £100, drawn on Smith & Brown, London. I take this to the Bank for negotiation, and find that their buying rate for bills of exchange is par, therefore I receive £100. The Bank debits "British Bills in Transit" £100, and credits Cash. About a month later a transfer entry is passed debiting London Office and crediting "British Bills in Transit," and once again the entry in London's books and in the books at Wellington are synchronous. If, however, I draw on my London firm at sixty days' sight, the Bank will only purchase it from me at a discount of 12s. 6d. Seeing that it would be about three months before they could pass the amount to the debit of the London office, and so save interest on that amount, and that they have been out of pocket meantime, it is obvious that interest is taken into account when fixing this discount.

In London the rates on Wellington are reversed. London buys sight drafts at a discount, and sells sight drafts at about par.

I find now that my time has completely gone, and I am unable to do more than just hint at a branch of the present part of the present subject, on which I hoped to say something—viz., Exchange Rates between America and Australia. I would, however, point out one rule which may often throw light on an apparently difficult problem, or help a student when, as often happens, the examiner has purposely or inadvertently given the question in a hazy form. Remember that a merchant exporting goods is always paid in the currency of his own country.

If an American has alternative methods of drawing for 10,000 dollars, on an Australian firm, he will receive 10,000 dollars, although the amount to be paid by the Australian firm may vary, according to the different means of settlement adopted. The American receives dollars and the Australian firm pays in pounds sterling. The Englishman who exports to France receives pounds sterling, and the Frenchman pays in francs. But in every case the exporter receives his invoice price in his own money.

It only remains now for me to thank you for your close attention, and to express the hope that my lecture this evening may have been, if not interesting, at least profitable.

The Field of Accountancy.

By DAVID KINLEY, Ph.D.

SOME time ago I had occasion to try to get an adequate and correct idea of the duties of public accountants. In order to get the benefit of expert advice, letters were sent to forty or fifty accountants, asking them to define the term "public accountant." Between thirty and forty replies were received, and they form the basis of this article.

As is usual in such cases, a good proportion of the answers are not usable. Of the answers which may be regarded as good definitions, in the proper sense of that term, the following are, perhaps, the best examples:—

(1) "The public accountant is a professional man whose services are devoted to organising, examining, and reporting upon any and all classes of accounts . . . with the object of so systematising them that the maximum information, pertinent to their purpose, may be obtained at the minimum cost of time and effort; that of examining to ascertain whether the results shown at any given period are correct and in accordance with all the relative facts obtainable; and of reporting to furnish his client with a disinterested impartial narrative of his findings as the result of such an examination."

(2) "The principal function of a public accountant is the study of the methods employed in conducting the financial operations of a business, and thereupon designing such a system of accounts as will afford ready information of the amounts of money received and expended, consistently classifying such amounts under proper heads, so that the proprietor or manager of a business may be enabled through comparisons of the figures so presented to direct the operations of manufacturing, buying, or selling, in a manner which shall eliminate unnecessary expenses or losses, or shall add to the receipts or profits."

(3) A public accountant is "one who . . . has the ability to render professionally services in inaugurating and simplifying systems of accounts, as well as verifying and clearly reporting upon business conditions as revealed by the recorded transactions of the accounts under review."

(4) "A public accountant is a person possessed of a

"thorough knowledge of the principles underlying business methods and the best ways in which to express those principles in the books and other constituent parts of the office, the factory, and all other departments of the entire business, so as to make them work together as a harmonious whole, to the end that all the information concerning each detail of the business and of the grand total of results may be ascertained with the greatest possible accuracy, promptness, and economy of labour. This presupposes the ability to detect errors of omission and of commission and to apply the proper remedies."

(5) The following is a description rather than a definition, and has been condensed for the present purpose:—

"A public accountant is one who . . . renders professional services of the following kind:—

(a) To devise, instal, and supervise the administration of systems of accounts adapted to the administrative needs of a business, public or private.

(b) To audit or critically examine systems of accounts as a means of determining the correctness of bookkeeping results, and to report . . . the operative results, the gains and losses, the distribution in dividends of net profits or surplus of a 'going concern,' or the distribution of an estate on 'winding-up.'

(c) To make special reports pertaining to any matter or aspect of a business involving financial analysis."

One or two correspondents refer to an excellent description of accountant's work given by Mr. A. L. Dickinson in *The Accountant*, February 26 1902. I give a condensed statement of -Mr. Dickinson's description: "A public accountant is not merely a bookkeeper, a statistician, or a man of figures, nor only a good man of business, but if he be successful in his profession he must combine all these qualifications, and in addition have a general knowledge of all industrial undertakings, of the forms of accounting most suitable to each, and of the general principles, both legal and economical, which govern them. The training referred to above is only the first step to the attainment of such a position. . . ." Mr. Dickinson classifies the work of an accountant, noting as the principal things:—

- (1) The audit of accounts, entailing such examination as will satisfy him that the accounts laid before him are substantially correct and enable him to certify to this effect. . . .
- (2) The establishment of systems of bookkeeping and Cost Accounts. . . .
- (3) The investigation of the accounts of firms and companies with a view to certifying the profits or verify-

ing the assets and liabilities on conversion of the same into public or private corporations.

The author further enumerates, as co-ordinate functions, the investigation of frauds, supplying trained assistants, examinations on the occasion of changes in the corporate character of a business, examinations in bankruptcy proceedings, executors' accounts, &c. But such an enumeration, though very helpful, is hardly necessary in a definition. The character of an accountant's work is what we want to describe, irrespective of the particular kind of business in which it may happen to be applied. The nature of his work is not changed by the use to which his results are put. The same objection lies against the following description, aside from its being tautological:—

(a) "The making of audits . . . as an aid in determining the efficiency and fidelity of employees, departmental profits or losses, and in shaping future business policy.

(b) The making of a Balance Sheet, or a statement of the assets and liabilities of any business, showing . . . its true financial condition.

(c) The making of a prospectus of a proposed commercial undertaking or consolidation.

(d) Devising systems of accounts for businesses and industries of different kinds, suited to their particular needs.

(e) The investigation of the accounts of persons whose official conduct may be under suspicion.

(f) The making and procuring accurate inventories and statements of account in receivership proceedings, bankruptcy cases, probate matters, &c.

(g) Actuarial work for life insurance companies.

(h) General work relating to the finances of municipalities and states, embracing, among other things, the levying and apportioning of taxes and special assessments, the issuance, refunding, and retiring of bonds and debentures, &c."

The following is shorter, but just as complete:—"A public accountant is a person skilled in accounts and commercial usages, who offers his services not exclusively to one or more persons or organisations, but generally to whosoever wishes to engage him for the purpose of (a) auditing accounts; (b) making any required examination of accounts to establish questions of fact, such as assets, liabilities, costs, or profits; or (c) designing, installing, or advising in reference to a system of accounts with forms specially adapted to a given business; (d) giving testimony or advice as to conditions and practices existing in the conduct of business affairs."

The following definition is from a railway accounting officer of long and varied experience:—Accountancy is

"the accurate, truthful, and scientific expression of transactions in current and generally understood and accepted form and terminology, for purposes of information, regulation, and protection against loss; and the critical review and verification of such expression." This definition goes beyond financial statistics. The author of it remarks, in a comment, "It may be, often is, desirable to keep accounts so as to reflect the performance of an animal or a group or herd of animals; or the workings of a farm or mine, or a particular section of a farm or mine; or, again, of a machine or a group of machines."

To define the work of an accountant in so broad a way is to identify him with an expert general statistician. The accountant is doubtless an expert statistician, but a statistician whose work is confined to a particular field of statistics.

These definitions show considerable differences in emphasis. While all agree that, whatever else he does, the accountant must examine, organise, and report upon systems of account, some lay emphasis on the mere ability to examine and certify the correctness of accounts, while others regard the power to devise and instal systems as the more important feature. Still others lay emphasis upon the importance of a knowledge of business methods or upon legal knowledge. Some fail to distinguish between the character of the accountant's work and the lines in which it may be applied. If his work is the same, it makes no difference whether it is done in connection with Trust Accounts, Bankruptcy Accounts, or the Accounts of a Manufactory. It is not necessary, therefore, to make a long enumeration of the applications which an accountant may make of his knowledge.

From what has been said, it is evident that even the accountants themselves are hardly able to describe with accuracy, and certainly not with unanimity, the scope of their duties. This fact is probably due in part to the newness of the profession and to the absence of a legal definition. Anybody who has a slight knowledge of book-keeping and collateral subjects may call himself an accountant, or an expert accountant, and if he offers his services to the public he may advertise as a public accountant. If he is to be a certified public accountant, he must pass examinations in certain subjects prescribed by law. Hence the knowledge of these subjects may be taken as the requirements of the law for determining the scope of knowledge and work of the public accountant. The subjects generally, if not uniformly, prescribed are Practical Accounting, Auditing, Theory of Accounts, and Commercial Law. But we are, perhaps, not brought by this statement any nearer a clear and definite conclusion as to the scope of the accountant's duty; for the law does not describe for us what is meant by practical accounting and theory of accounts. What is accounting? If we can

agree as to this, of course, it is easy to define an accountant and a certified public accountant.

It is a venturesome thing for a layman to try to describe the work of a group whose own doctors do not quite agree. If, however, we may try to do so on the basis of the points of agreement in the various definitions, we might describe an accountant, briefly, as an expert in the field of financial statistics, whose work is to exhibit in appropriate statistical form the organisation and condition of any business; to interpret his own exhibits so as to determine whether or not the business is harmoniously organised; whether the distribution of expense and income among its various divisions is the best possible, under the circumstances, and, if not, what modifications should be made.

In the above definition the accountant might, in the first place, make the original entries, although this is not necessary. So far as he does so, his work is that of a *bookkeeper*. This part of the work, however, bears the same relation, in a general way, to accounting work proper that the work of a census collector does to that of the worker who tabulates and interprets his results. Book-keeping is not accounting, any more than statistics collecting is statistical interpretation.

In the second place, under this definition, the work of the accountant is to determine whether original entries are correct and correctly represent the particular business organisation and its condition as to profitability, &c. Here the accountant performs his duty as an *auditor*.

The third phase of the accountant's work is to determine and show from the accounts of a business whether it is harmoniously organised, and whether the distribution of expenditures and income among its various divisions is the best possible under the circumstances. In this capacity the accountant is an *expert adviser* on business organisation and its conditions. He is, so to speak, a financial physician. In this capacity he requires a wide knowledge of business organisation and methods, a knowledge of commercial law, and sufficient technical knowledge to enable him to determine when to call in the expert in other lines, such as the engineer and the lawyer.

Further, it is the business of the accountant to invent and adapt financial or accounting systems to particular businesses. In this work he may be compared with the statistician preparing his schedules.

The above divisions of work include all the generic details mentioned in the descriptive definitions before given. The accountant will make audits of all kinds of accounts and papers of persons charged with the care of moneys, stores, &c., to test the honesty and the efficiency of the employees, to show profits or loss, to determine soundness of policy, to prepare prospectuses of commerce.

undertakings, devise systems of accounts, &c. This work he may perform in any sphere to which it is applicable.

May we, then, briefly describe the accountant as an expert in financial statistics with a knowledge of business organisation in general, and with the ability, therefore, to understand, devise, and apply statistical schemes and forms to any business organisation with reference to internal structures, its technical capacity, and its legal relations? Such work can be done only by a man who is thoroughly trained in statistical theories and methods, so far as they deal with financial organisation, who is well acquainted with the principles of business organisation, technical and legal, and can express these in figures; who can interpret such presentation when made by them and can frame appropriate schemes of his own. In the requirement of the law he must be "skilled in theory and practice of accounts, commercial law, and auditing."

A word or two may be added as to the significance of the word "public" in the phrase "public accountant." The public accountant is, of course, one whose services are open to anyone in the line of his business. The use of the word in this sense is rather unfortunate. We do not speak of a public lawyer, or a public doctor, as distinguished from the lawyer or doctor employed permanently by a private firm or corporation; still, there is sanction for this use of the term, and it probably has come to stay.

Sinking Funds, Reserves, and Reserve Funds.

By WILLIAM HICKLEY GUNDRY, F.I.A.N.Z.

Delivered before the Christchurch Accountants' Student Society, 19th June 1906.

SINKING FUNDS, Reserves, and Reserve Funds have of late years been the subject of much thoughtful deliberation, and have called forth many expressions of opinion. It is my intention to bring before you in as concise a form as possible the practical meanings of each—how they are originated and for what purposes they can be used in different financial concerns.

If I am led to introduce a little local element with regard to controversies on the subject which have occurred in New Zealand, it is only to emphasise my classification and variation in the character of the three designations.

Sinking Funds are principally confined to the accounts of public bodies, or business accounts, where special loans are obtained for any particular purpose, and in many cases

a condition is attached to the terms of the granting of the loan that a specific sum shall be placed aside yearly, so that at the expiration of the term of the loan a "reasonable sum" shall have accumulated in a given form towards the repayment of the loan obtained under that particular agreement. This "reasonable sum" cannot be absolutely guaranteed in amount, as the rate of interest to be earned and compounded can only be estimated. Some of our local Sinking Funds have at times produced 7 per cent., at others only 2½ per cent., thus fluctuations in the value of money must materially affect the ultimate Sinking Fund in a term of, say, 30 to 50 years.

As an actuary, I have on several occasions been called upon to calculate Sinking Funds at a given rate of interest to cover loans by public bodies. I have always thought it necessary to qualify my reports with a clause calling attention to possible fluctuations in the value of money.

Loans on the Consolidated Revenue of the State (Consols) are now usually raised without any allusion to Sinking Funds, it being tacitly understood that such loans will be renewable at future values of money.

Some months ago there was a local discussion as to what had become of a certain borough's Sinking Fund. The answer to the accountant is very simple, if one only looks back to the conditions attached to the origin of the loan with the conditions of the Sinking Fund to accrue.

In this case the published terms of the loan provided that rents of certain landed reserves owned by the borough, together with a rate of one farthing in the £ on the rateable value of the district, should be set aside to secure (1) the cost of collecting the rate and other costs, (2) the payment of the interest on the loan, and (3) the formation of a Sinking Fund for the repayment of the loan (or a portion thereof) at the due date.

No other assets were pledged as against the Interest and Sinking Fund. Of course, the loan by Act of Parliament is chargeable on the capital value of the borough.

The Reserves for a time depreciated in rental value, and the rateable value of the district also fluctuated, with the result that, after payment of the costs and interest, there was on some occasions insufficient to meet the proposed apportionment for the Sinking Fund.

A separate account was kept of the sums pledged against this loan. Whether the account should be simply kept in the borough books, or invested in a distinct Bank Account, or placed in the hands of a commissioner, does not appear to have been mentioned, or to have interested the Government auditor; in fact, without a specific agreement, the Council's opinion as to the manner in which it should be dealt with was entirely open. Some of us have had experience of the fact that a bank is not neces-

early the safest place for a credit of this description, as banks even have been known to fail.

It is usual, and possibly the safest plan, to invest such funds in the names of commissioners, otherwise trustees, on approved security. I may say that in the above case all that had been pledged was duly accounted for.

Sinking Funds may be used in commercial transactions as well as in trusts. For instance, it may be made a condition of sale or loan that certain funds shall be periodically invested in a separate concern, bank, or investment company, to meet the goodwill or the terminating lease of a property; in which case the sum allocated and earmarked would be debited to Profits and carried to the credit of a Depreciation Account, and an equivalent sum, in cash, paid away and debited to Sinking Fund.

Thus the entries would appear on both sides of the commercial Balance Sheet—on one side the accumulated fund and on the reverse the investment thereof. This, however, will be better understood after the perusal of my remarks on Reserves and Reserve Funds.

We find many erroneous opinions expressed by business men as to what constitutes a Reserve in a commercial Balance Sheet, and the purposes to which it can be appropriated. I will deal with the Reserve in a public company; whether limited in liability, unlimited, or no liability does not affect the problem.

It has been laid down by some authorities that a Reserve can only be made out of Capital! True in a sense; but only through an increase of the corpus through Profit and Loss Account—*i.e.*, the periods transactions show that a given profit has been made; this profit is proved by the fact that the assets have increased sufficiently over the liabilities to represent an equivalent to the profit claimed to have been made. Whether the additional asset is in cash, land, or stock, it may be impossible to say, but as the shareholders or partners do not require, or wish, the whole of the earnings to be paid in a dividend to them at that particular time, they can by resolution have a portion thereof carried to Reserve (this Reserve can be qualified by the articles of association of the company), a part may be paid in dividends, and the balance (if any) carried forward in open account for the free disposal of the directors in the following year. The Reserve thus created is therefore represented by an asset included in the total assets of the company (undefinable, *but* there, always supposing that the assets actually exist, and are not overvalued). It will be seen that this Reserve is so much undivided profit placed aside for future use.

In one of our leading companies in this city the articles of association provide that the Reserves so formed shall

be used by the directors for the equalisation of future dividends without reference to the shareholders.

In general, however, if the shareholders have once passed a Balance Sheet which transfers a portion of the profits to Reserve, it is only by a vote of the shareholders that the Reserve, or a portion thereof, can be returned for dividend purposes to the Profit and Loss Account from which it originated.

This law has been acted upon in several instances. Many of our eminent business men appear to look askance at a Reserve in a Balance Sheet as something not very tangible, unless specifically invested as such.

A gentleman recently said to me, "I shall not be satisfied that our Reserve actually exists until I see the deeds of our premises free." I quite admired the soundness of his finance, but suggested that an overdraft, very easily obtained, would immediately clear the property.

The fact is that, if the asset is in existence, it is of no importance as to whether it is in land, grain, drapery, tallow, or on deposit (only credit) in a bank, which unfortunately suspends payment sometimes. Presuming that the Reserve is in so-called hard cash in a bank, and there is a loss on a fall in grain to an equivalent amount, the bank credit must be called in to reinstate the loss in the accounts before a reduction of the capital can even be contemplated. Hence, the equivalent value of grain to the loss would have precisely the same effect in consolidating the finances of the company. Again, the value of the Reserve, if retained in the business, is frequently of more commercial value than the interest which can be obtained for money on an outside investment. That is, if a company's business is so good that it can afford to set aside a share of its profits as a Reserve, surely the extra capital is more valuable in its internal working than if lent out to others, who necessarily expect to make a profit thereon.

Reserve Funds suggest to us something differing in nature from an ordinary Reserve. Something tangible, it is generally thought, which can be called in at a moment's notice to meet an unforeseen emergency. One of our most eminent writers on accountancy, in alluding to the question in this form, has said: "Possibly it has not occurred to the advocates of this theory of investing the Reserves outside the business that if the Reserves are genuine the retention of the value thereof within the business will obviate the emergency arising," or words to that effect.

The dealing with the outside investments of reserves in the Balance Sheet requires a little thought. It has been said that "Reserve Funds" can only be made out of the capital. It must be apparent to all that increment of

capital is meant by the term, and that increment can only be shown through the Profit and Loss Account. There can be no Reserve made out of a loss, and to make a Reserve out of subscribed capital would be absurd. It is the dealing with a Reserve Fund in what is called "cash" which I wish to illustrate. Mr. William Brown, ex-President of the Institute of Accountants of New Zealand, delivered a very excellent address on "Value, Credit, and Money," which was published in the *London Accountant* of the 2nd September last, and which I trust some of you have read. Mr. Brown gives us an illustration of the infinitesimal proportion which money or cash bears to credit in the commerce of the world, and it does not require much consideration to understand that Reserve Funds in outside concerns can only be a "credit"—that is, an established credit, good so long as the guaranteeing institution is equal to the demand upon it.

Now, presuming that it is thought necessary to create an outside fund for "Reserve" out of the profits of the business, some writers have suggested that the item should be at once debited to Profit and Loss, and invested. In practical accountancy the item thus invested would be lost sight of in the books of the concern, as do wages and expenses after being finally dealt with, or the Sinking Fund in a Trust Account after being once paid over to Commissioners out of income.

In commercial accountancy the books should continue to show the Reserve Fund, and it is necessary to debit Profit and Loss with the sum agreed upon, and credit "Reserve" Account therewith. This sum will be an accumulating figure on the liability side of the Balance Sheet. The Reserve Fund will be the result of the payment of an equivalent thereto in actual cash out of the bank to an outside investment, and will appear on the

Balance Sheet as an asset, or equivalent credit to the Reserve. The Reserved Fund thus created can be earmarked by registered deed of agreement for a specific purpose, say, to secure debentures, terminating leases, or a life interest in a partnership.

I will classify the three terms as follows:—

- (1) A "Sinking Fund" is an accumulated surplus out of a given conditional income set aside for a specific purpose.
- (2) A "Reserve" is an undivided profit or surplus of income set aside in the assets in the institution for future use, or to strengthen the corpus thereof.
- (3) A "Reserve Fund" is the equivalent to the "Reserve" invested in an outside institution, Consols, Land Interests, &c.

Voucher Cheque.

[CONTRIBUTED.]

AN accountant taking up the duties of his profession in a new country is naturally alert to note and acquaint himself with the respective values of the many differences which exist between the accounting methods of his new field of operations and those of the old country.

In America the first thing probably to attract attention is the "Voucher Cheque"—i.e., a form of cheque which, when duly dated and signed by the party in whose favour it is drawn, becomes a legal receipt; as a matter of fact, however, the order is usually reversed, the document being made out more in the form of a receipt, and, as frequently stated on the face of it, "When dated and signed becomes a sight draft payable at the X. Y. Z. Bank."

No.....

F. I. JONES & CO.,
CHEAPSIDE, LONDON.

Stamp.

Pay to the order of

This Voucher, when dated and signed, becomes a Sight Draft payable at the Bank of England.

Correct:—

(Bookkeeper)

(Signed)

F. I. JONES & Co.

RECEIVED of F. I. JONES & Co. the sum of
.....
in full payment of the above account.

Sign in ink.

Receipt

Stamp.

(Payer)

Digitized by Google

The benefits to be derived from the adoption of this form are at once apparent.

In the first place, the payer is always sure of getting a receipt for every such payment, the cheque goes through the hands of the banker and is returned by him in the ordinary way, and an orderly bunch of returned cheques becomes at the same time an orderly bunch of receipts.

Secondly, it is the custom for a voucher cheque to set forth a brief recapitulation of the invoices or other details comprising the amount of the cheque; in this way it is not necessary to let the creditor's statement go out of one's possession, and at the same time the payer has the satisfaction of knowing that the payee understands just exactly what is being paid and what deductions are made, the signature to the receipt being absolute proof.

Thirdly, it is at once evident what a tremendous saving of (a) time of clerks whose duty it is to write receipts, (b) of forms of receipts, and (c) cost of postages of receipts back to the payer, would be effected if this method of payment were the general custom.

Lastly, the extra work falling on the payer need amount only to the writing in of the *dates and amounts* of invoices being paid; and where a firm has been in the habit of sending with its cheques a recapitulation on a separate sheet, the adoption of this method also means an economy in time.

I may perhaps mention that many of the companies using this form take off carbon copies, which are filed away with the papers, and thus prove conclusively the value of cheques outstanding; it is necessary only for the signature to be in ink. For segregation purposes there is no limit to the uses of a voucher cheque.

The application of this system in England is, perhaps, not practicable as matters stand at present, but there seems to be no reason why it cannot be made so. In America there is no stamp duty on receipts and cheques, and a voucher cheque, if properly worded, is valid. Of course, the form has to be slightly larger than the customary cheque so well known in England, and altogether it is not looked upon very favourably by the bankers, principally, I think, because certain of the railways and other large concerns have adopted forms about three times the normal size, which fold into three, and the signatures on which in some cases amount to as many as twelve, fifteen, or more. If desired, the paper may be perforated so that the section containing the recapitulation may be detached by the payee, but this means writing in the creditor's name and the date twice.

As previously stated, this form is already in use in certain quarters, but its value has not yet been generally recognised, and it is only when the accountant draws

attention to it that the ordinary business man becomes aware of the fact that it is also advantageously adapted to his own particular business.

In my opinion, it will come into very general use in this part of the civilised world, and if only the Chartered Accountants of England could take the matter up and endeavour to effect a change in the law (if such is necessary), making a signed cheque a legal receipt, the value of their recommendations would soon be recognised by a large majority of the business men of England.

It seems to me that speedy recognition is ensured, if only on account of the saving of time and expense to the payee, and every man who amounts to anything is a payee, more or less.

CHARTERED ACCOUNTANT.

Obituary.

Charles Rogers, A.C.A.

We regret to record the death, at the age of 66, of Mr. Charles Rogers, head of the firm of Rogers, Son & Page, Chartered Accountants, Milton Chambers, Nottingham, which took place from a heart attack on the 21st ult. Deceased was one of the earliest local accountants, commencing business in 1871, prior to which he was associated with the Official Assignee in the Bankruptcy Court. He was a prominent Freemason, being one of the oldest members of the Newstead and the Duke of Portland Lodges, and held the position of Provincial Grand Organist and Provincial Grand Treasurer. For many years, too, Mr. Rogers took a very active interest in local musical circles and had held the post of organist at Lenton Church, St. Mark's, Holy Trinity, and St. Peter's, as well as deputy at St. Andrew's. The deceased was buried with masonic honours on the 24th ult. at the Church Cemetery, following on a service at St. Andrew's Church, when a large number of mourners were present, including local Chartered Accountants and Freemasons.

Review.

Decimal Coinage, Weights, and Measures.

By EDWYN ANTONY, M.A., J.P., Barrister-at-Law.

London, 1906: Geo. Routledge & Sons, Broadway House, Ludgate Hill, E.C. Price 6d.

This is a pamphlet of some twenty pages dealing upon popular lines with the question of decimal coinage, weights, and measures, explaining the systems at present

in use in other countries, and the relative advantages and disadvantages of their adoption here. The writer comes to the conclusion that it is not expedient to make changes in our weights and measures, except in conjunction with our Colonies and the United States, on account of the enormous practical difficulties involved, which would be without any adequate compensation unless the effect was to bring all the English-speaking peoples into line. On the subject of decimal coinage, however, he shows a more open mind, and suggests that a decimal system of reckoning might be introduced upon the basis of one "norm" being equal to one hundred pence without altering the existing coinage at all. As a means of bridging over the inevitable difficulties and confusions of a change of coinage, such a system might possess some advantages, but we very much question whether the introduction even of a decimal system of reckoning would be materially advanced so long as the existing coinage remained, and the decimal system be thus rendered optional. Under such conditions we venture to think that accounts would continue to be kept in pounds, shillings, and pence, although possibly the substitution of a gold coin worth 8s. 4d. for the sovereign might facilitate calculations of foreign exchanges. Even for that purpose, however, we cannot help thinking that a golden dollar worth 4s. 2d. would be more convenient, which would place the cent at exactly one-halfpenny. The great difficulty about any change of the coin, however, is doubtless that, to employ any sort of system of decimal reckoning, or coinage, it becomes necessary either to abandon the sovereign or else the penny. The abandonment of the former would involve the introduction of an entirely different method of accounting, which would cause much inconvenience to business men of all descriptions, while any alteration of the value of the bronze coinage would no doubt cause equal inconvenience and considerable hardship to the poorer classes. It should not be overlooked that, in spite of the existing system of coinage (which is naturally far more inconvenient to foreigners than to ourselves, who are accustomed to its reckoning), Great Britain has become the financial centre of the world, and it is open to question whether there is anything to be gained by a change which certainly would *not* have the effect of abolishing differences in exchange. These are the result not of various systems of coinage, but of the ever-changing supply and demand of money at the different centres of exchange.

Personal.

MR. MAURICE G. DADLEY, Chartered Accountant, has commenced the practice of his profession at Masonic Buildings, Little Park Street, Coventry.

MESSRS. JONES, CAESAR, DICKINSON, WILMOT & Co., Certified Public Accountants (Ill.), PRICE, WATERHOUSE & Co., Chartered Accountants, 54 William Street, New York, announce that they have admitted into partnership Mr. GEORGE R. WEBSTER, C.A., C.P.A. (Ill.), and Mr. W. ERNEST SEATREE, A.C.A., C.P.A. (Ill.). The firm names will remain unchanged.

MR. T. WATSON SIME, Chartered Accountant, of York Chambers, 9 Toronto Street, Toronto, announces his removal to 30 Wellington Street East, Toronto.

MESSRS. LYBRAND, ROSS BROS. & MONTGOMERY, Certified Public Accountants, announce the removal of their Philadelphia offices from the Stephen Girard Building to the Land Title Building.

MESSRS. ROOSE, MAHON & HOWORTH, Chartered Accountants, of 26 North John Street, Liverpool, announce that they have taken into partnership Messrs. FRANK SKAIFE HOWORTH and HERBERT GEORGE MAHON. The name and style of the firm will continue as before.

MESSRS. JOSHUA WORTLEY & SONS, of Alliance Chambers, Sheffield, announce that they have admitted into partnership Mr. A. H. HEAP, who served his articles with Mr. JOHN WORTLEY. The style of the firm will remain unaltered.

Helpful Hints for Bookkeepers.

(Not from the Household Column of "The Daily Mirror.")

To Cook Accounts.—Carefully remove the debit balance of the Profit and Loss Account, and see that there is plenty of fat on the credit side. Put the Balance Sheet in a slow oven, think a lot, and await results. Garnish with fictitious assets of high value. Mind you don't burn your fingers over it, and be sure the cooking is not overdone. Serve hot to the directors, who like it.

To Balance a Ledger.—Take one large Ledger, and lay it carefully upon the table. Take off your coat, turn up your shirt-sleeves, and grasp the Ledger firmly with one hand, raising it above your head. Place your disengaged hand upon your hip, and see that the body possesses the proper equipoise. If this process is properly gone through the Ledger will be balanced, and after insuring your life heavily the Chartered Accountants may be called in.

To Post a Ledger.—First take your Ledger. Request the examiners of the London Chamber of Commerce and the Society of Arts to attend. Wrap the Ledger in brown paper, tie it up with string, label it, stamp it, and then put it into the nearest pillar-box. Your certificates will be forwarded in due course.

To Take out a Trial Balance.—Seize the Trial Balance while it is looking the other way, and disable it; then take it out with a pair of tongs. (Don't hit it unless it is dangerous.)

A. F. S.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, August 24th, was 146, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 80; Deeds of Arrangement registered, 66. The respective numbers in the corresponding week of last year were: Bankruptcies, 73; Deeds of Arrangement, 75—total, 148; being a decrease of 2. The total number of commercial failures recorded during the 34 weeks of the present year is 5,511; the total number recorded in the corresponding 34 weeks of last year was 5,884, showing a decrease of 373.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, August 24th, was 141. The number in the corresponding week of last year was 153, showing a decrease of 12. The total number filed during the 34 weeks of the present year is 5,035; the total number filed in the corresponding 34 weeks of last year was 5,529, showing a decrease of 494.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, August 24th, amounted to £2,120,181, by way of addition to £2,469,629, previously issued by the same companies. The amount registered in the corresponding week of last year was £1,358,222, showing an increase of £761,959. The total amount registered during the 34 weeks of the present year was £57,267,674 (in addition to the issues in previous years by the same companies), as compared with £53,444,468 for the corresponding 34 weeks in 1905, showing an increase of £3,823,206.

The Profession in Scotland.

Personal.

The copartnership carried on by Mr. William James Wood and Mr. George Rorie, under the firm-name of Moir, Wood & Rorie, C.A., Royal Bank Buildings, Perth, has been dissolved by mutual consent as at 31st January 1905.

Rights of Bondholders.

A Novel Point.

Sheriff Fyfe, at Glasgow, has just decided a novel point regarding the rights of a bondholder to foreclose upon his

security. The trustee in bankruptcy of the grantor of a bond appeared at Glasgow Sheriff Court to oppose an application by the bondholder for declarator of proprietorship under the Heritable Securities Act, 1894. The trustee pleaded that the action was irrelevant, and his Lordship has sustained this plea, finding that the principal sum due under the heritable security exceeded £1,000, and that pursuers hold two heritable securities, but that only one had been exposed for sale under their bond.

In a "note" his Lordship says it was with some hesitation and with much regret that he sustained the relevancy plea of defender, for his sympathy was entirely with pursuers—met as they here were by a technical plea stated for their debtors, who had not paid, and confessedly were unable to pay, their debt. But pleas in law, however technical, must have effect if sound, and, after careful consideration, he was constrained to hold that the first plea for defender was sound. The Sheriff was glad, however, that the point arose in a case where the bond was over £1,000, and therefore that his decision was subject to review, because the question here raised (so far as he could learn for the first time) under the Heritable Securities Act of 1894 was a very important question for borrowers on heritable security. The Sheriff thought defender had a title to state this relevancy plea, although perhaps his interest to do so was somewhat difficult to perceive, for there was apparently no possible reversion to the bankruptcy estate. The question raised was:—Can a lender who holds several securities in one bond, but who has not exposed all the security subjects under his bond, nevertheless foreclose under the 1894 Act upon such of the subjects as he has exposed? Pursuers' bond was for £5,000, and in security of that sum the grantors, Miller & Co., now represented by defender Mackay, disposed, *inter alia*, two heritable properties, (a) the Clydesdale Dye Works at Rutherglen, and (b) the property at Bothwell called Hillpark, this bond being a first charge upon the dye works and a second charge upon Hillpark. The £5,000 debt was not allocated upon these two properties, each of which formed a security for the full £5,000 (although, of course, the bondholders could not, out of either or both, recover in all more than their £5,000). Pursuers had exposed the dye works under the bond, and failed to sell at a price to cover the bond. The craving in the present petition was restricted to the dye works property. Pursuers had not exposed the Hillpark property under their bond. For the present purpose his Lordship assumed that the first bondholder has exposed that property, and failed to sell at a price to cover his own bond. Where part only of the security subject has been dealt with, as in the present instance, the debtor did not get his *quid pro quo*. If pursuers were to get the declaratory decree they now sought, without also freeing their debtor,

they would take the dye works property at £3,900. But the debt was £4,062, so that the debtors' personal obligation would remain for the balance of £162 and interest, and this would be a claim on the debtors' bankrupt estate. Pursuers did not offer to discharge the personal obligation, nor did they renounce the Hillpark security (if it is competent for them to do so, which his Lordship doubted); obviously they could not expose the Hillpark property at less than the first bond, and if they expose it for more, and then got a declaratory decree, he expected they would become liable for that prior bond. It seemed, therefore, that practically they could not expose the Hillpark property at all, and if it was not exposed then the debtor did not get the discharge which the 1894 Act designed him to get. The Sheriff, therefore, felt himself shut up to the conclusion that this petition was irrelevant, in respect that it was based upon exposure of part only of the security subject. Even apart from the technical view of it, his Lordship thought there were general considerations which went to strengthen his view that the intention of the Act of 1894 was to end absolutely the relationship of debtor and creditor between the grantor and the grantee of the bond.

It is understood that this being the first time the question has been raised, the case will be carried to a higher Court.

THE AUCTIONEERS' INSTITUTE.—The autumn provincial meeting of the Auctioneers' Institute of the United Kingdom will be held on Wednesday, September 12th, and the three following days, at Windsor. An interesting programme has been arranged. An artistic booklet, giving all particulars of the proceedings, has been prepared for distribution and is being issued from the Institute. Those desiring further information can obtain it of the secretary, Mr. Charles Harris, 34 Russell Square, London, W.C.

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LAW REPORTS.

THE CORNHILL MAGAZINE for September contains the first instalment of a new serial by the author of "Elizabeth and her German Garden," entitled "Fräulein Schmidt and Mr. Anstruther, being the Letters of an Independent Woman." Mr. Stanley J. Weyman continues "Chippinge," and Martin Ross supplies an Irish character sketch entitled "For Better, for Worse." In "A Scotchman at Mars-la-Tour," the Baron Campbell von Laurentz tells the story of his personal experiences in the great battle before Metz. Mrs. Margaret L. Woods contributes "The Ballad of the Wizard." Count Zorzi concludes his reminiscences of "Ruskin in Venice," and the Vice-Provost of Eton writes on "The Face of the Land."

Bank Rate of Discount.

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Extract from *Auditing*, by LAWRENCE R. DICKSEE, F.C.A.
(Page 180)

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Leading Articles.

Company Law Amendment.—V.

THE anomalous position of creditors of a company when a receiver has been appointed on behalf of debenture-holders next engages the attention of the Committee. It is suggested that notice of the appointment of a receiver should in all cases be given to the Registrar of Joint Stock Companies, and that such receiver should be required to file with him an abstract

of receipts and payments for each half-year during the continuance of such receivership. With regard to the general principle involved no objection can be raised; it may be pointed out, however, that it does not seem very practicable to require a receiver to file accounts until they have been passed by the Court, while it is not the practice of the Court to pass receivers' accounts more frequently than once a year. A more workable arrangement, we think, would be to require the responsible officer in the High Court to forward a certified copy of the receiver's accounts, as passed, to the Registrar of Joint Stock Companies immediately after they have been approved.

In the form of a schedule attached to the report before us is a revised edition of "Table A" of the Companies Act, 1862, which is in many respects an improvement upon the original—as, indeed, is only to be expected after an interval of forty-four years. It is true that in its existing form this revised Table appears to respond most directly to the manner in which the question was raised by the Board of Trade minute appointing the Committee; but, for all that, we cannot help thinking that what is required is not so much an up-to-date edition of Table A, which will enable small companies to adopt reasonably workable articles of association without going to any undue expense, but rather to entirely remodel those portions of the law relating to the subject so as to make it incompetent for a company to contract out of many of the safeguards provided by Table A, and by nothing else. There are many provisions in Table A which might with great advantage be made compulsory upon all companies, and an even greater number which might be so made compulsory provided they were brought up to date in the

way that they now have been. That is to say, we think that a company's power of making its own internal regulations might with advantage be very much more restricted than is at present the case. No attempt whatever has been made to deal with this aspect of the matter by the Committee, and, so far as we can gather, the point has not even been raised.

Dealing with the *pro formâ* articles as they stand, the only one that occurs to us as calling for special comment is No. 97, which states that no dividend shall be paid otherwise than out of profits, which, it seems to us, is as unsatisfactory as it is vague. Upon so fundamental a question as this it seems eminently desirable that greater precision of language should be employed. Apparently this clause is meaningless, in that it does not seem to provide more than the Companies Acts themselves already provide; and if it be suggested that there must be some additional (if hidden) meaning in the clause, or it would not exist, we need only point to Clause 109, which provides that auditors shall be appointed, and their duties regulated in accordance with the Companies Act, 1900, Sections 21, 22, and 23, and any statutory modification thereof for the time being in force. It must be clear that this clause at least is redundant, inasmuch as the statutory provisions referred to *must* in all cases apply to those companies to which the revised Table A would in the ordinary course of events be applicable. There is thus good reason for assuming that Clause 97 stands upon the same footing; but, on the other hand, the point is sufficiently doubtful, and foreshadows some highly profitable business to company lawyers in cases where shareholders may be dissatisfied with the point of view taken by the directors of their respective

companies. Everything depends upon the meaning to be attached to the term "profits," and our readers will perhaps hardly require to be reminded that such authorities as Mr. THOMAS A. WELTON, F.C.A., and Mr. ERNEST COOPER, F.C.A., have in the past shown themselves to be fundamentally at variance as to how profits of a company are to be determined. As it originally stood, the clause, while by no means perfect, was certainly more precise. Paragraph 73 of Table A, in the 1862 Act, provides that no dividend shall be payable except out of the profits arising from the business of the company. The words "arising from the business of the company" naturally limit dividends to profits caused by the pursuit of the objects enumerated in the company's memorandum of association; whereas, without that qualification, profits of *all* classes (including those arising from an appreciation in the value of fixed assets), would appear to be available for dividend, even though still unrealised. We can hardly bring ourselves to imagine that this was the intention of the Committee, yet there must have been some object in omitting the words "arising from the business of the company," and it is difficult in the extreme to see what other purpose can have been served than that of extending the definition of profits to its fullest possible extent.

Under the general heading of Accounts, we are glad to notice that paragraph 5 provides for the preparation of an annual Profit and Loss Account, the effect of which would be to make bookkeeping by double-entry compulsory in the case of all companies adopting the revised Table A. This, however, is an example of what we mean when we say that many, if not most, of these clauses ought to be

made compulsory upon every company; indeed, out of all the 115 paragraphs in the revised Table, we question whether there are more than a dozen which might not with advantage be made of universal application, and retrospective.

Official Receivers and Secured Creditors.

THE following letter appeared in a recent issue of *The Solicitors' Journal*, which was duly commented upon by our contemporary at the time :—

SIR,—

The evils of officialism, which are so fully dealt with in the recent report of the Incorporated Law Society, have received an illustration within the last few weeks in our own practice which may be of interest to your readers.

A bank, who are clients of ours, have a customer who deposited with them a policy of insurance on his life to secure his overdraft. There was no legal mortgage or memorandum of deposit, but notice of the deposit was duly given to the life office. The customer became bankrupt, owing much more to the bank than the policy was worth. The bank thereupon applied to the insurance company to accept a surrender, but as there had been no legal assignment to the bank, they required the concurrence of the trustee, who was the Official Receiver of the district. Application was thereupon made to him to join in a receipt for the surrender money upon payment of his legal costs, but he declined to do this unless he received a portion of the surrender money in addition, and we are informed that the same receiver in another case required one-half of the surrender money to be paid to him.

We thereupon wrote the Board of Trade stating the facts and asking whether the demand made by the Official Receiver was supported by the Board.

The correspondence which followed is too long to trouble your readers with, but from it we gather the following points :—

- (1) The Board of Trade doubt whether an effectual equitable mortgage can be created by deposit only without writing.
- (2) They do not consider it to be the duty of their Official Receivers to act upon high principles and facilitate by every means in their power the realisation of the whole of a debtor's estate and its distribution, without unnecessary expense, between all creditors

(secured and unsecured) according to their respective rights and priorities.

- (3) But they do consider that an Official Receiver is entitled to be paid for parting with a bare legal estate.
- (4) And they also think that he is entitled to be paid money for an equity of redemption which (owing to the debt exceeding the value of the mortgaged property) is of no value at all.
- (5) It seems to be the official view that an Official Receiver, unless well paid to act reasonably, is entitled to take advantage of his legal position to deprive an equitable first mortgagee of a part of the priority to which he is entitled by law.

We are glad to say that in our own experience other Official Receivers, as a rule, take a more reasonable view of their duties, and are willing, on payment of law costs, to help an equitable mortgagee to realise his security where there is nothing to come to the estate, but if all trustees in bankruptcy are to act on the principles approved of by the Board of Trade, no equitable mortgagee of any kind of property will be safe, in case of his debtor's bankruptcy, from exactions by the trustee.

In fact, we shall have in future to advise clients never to lend money except upon a legal mortgage, a course that will be a good deal more beneficial to the profession than to the public.

A FIRM OF SOLICITORS.

Without going into the refinements of the legal position, which naturally is the point of view that chiefly commends itself to our contemporary, we would suggest, from the point of view of the plain business man, that if an individual has vested in him the legal estate, and refuses to make such assignment thereof as the law may require to enable a beneficial owner to obtain the proper acknowledgment of his property, even although he may be offered payment for all reasonable expense that he may be put to in the matter, such an individual would be regarded by his fellows as someone with whom it was unwise to have more intimate relations than could be helped. "Sharp practice" is probably the least unkind of the epithets that would be made use of under such circumstances. And, as

applied to an individual, it would certainly be well founded, for a man who takes advantage of a technicality to thus secure to himself a pecuniary advantage to which he can establish no equitable claim, stands upon a moral plane certainly no more exalted than that occupied by the traditional money-lender, whose transactions are now by statute open to reconsideration in the Courts of law.

No reflection can, of course, be cast upon the personal character of Official Receivers who, in accordance with instructions received from head-quarters, refuse to part with a bare legal estate until compelled so to do by an order of Court (obtained, of course, at much expense) unless they—or rather their department—is bribed by a payment approximating to one-half of the value of the property at issue. No reflection, as we say, can of course be passed upon the personal conduct of a Government official so acting in accordance with instructions, and as a Government department is without personality, there is presumably nothing much to be gained by attempting to pass reflections upon it. At the same time it is, we think, only right to point out that in this, as in some other respects, the course of procedure adopted by officialism is such as would be described as thoroughly dishonourable if pursued by individuals, and constitutes by no means the least of the objections to be raised against official systems generally. So long as such systems continue, however, it will probably be mere waste of time to deplore what would appear to be the natural and inevitable consequences of the absence of personal responsibility which is so distinguishing a feature of all systems of collectivism.

Actions against Companies in Liquidation.

IN view of the somewhat general uncertainty which prevails as to the circumstances under which proceedings may be taken, or continued, against a company in process of being wound up, and the circumstances under which such proceedings may be stayed, it will, we think, not be out of place if we devote some space to the consideration of the whole matter.

In the first instance, the Companies Act, 1862, draws a very wide distinction between companies in process of being wound up by the Court and companies in voluntary liquidation. Section 87 states that when a winding-up order has been made no proceedings of any kind shall be proceeded with, or commenced, except with the leave of the Court, and subject to such terms as may be imposed. But with regard to a company in voluntary liquidation no such provision exists, although Section 163 provides that in the case of a company being wound up subject to the supervision of the Court, as with one being wound up by the Court, any attachment, sequestration, distress, or execution put into force against the estate or effects of the company after the commencement of the winding-up shall be void to all intents. Curiously enough, there is a very general impression that these provisions restraining legal proceedings apply to *all* companies in liquidation; and, as a result, actions pending against a company which has passed a resolution for voluntary winding-up have sometimes been quite unnecessarily abandoned, greatly to the detriment of the interests of the plaintiffs. Not merely may such actions be continued after the commencement of the voluntary winding-up, but there is further absolutely nothing to prevent a creditor or claimant who

thinks fit from *commencing* an action against a company in voluntary liquidation.

It is the duty of the voluntary liquidator in such cases to decide whether he will admit the claim or dispute it, and although he may apply to the Court to have the action stayed, the practice of the Court in such cases is to require him to define his position. If he admits the claim as a claim to rank for dividend in the liquidation, that, of course, brings the proceedings to a satisfactory conclusion; but if he disputes the claim, as was the case in *Currie v. Kent Collieries, Lim.*, the Court will, in all probability, refuse to grant a stay, and leave the action to be tried in the ordinary course.

With regard to pending actions the equity of this ruling is beyond question. Until a plaintiff has obtained judgment he has no claim against the defendant in respect of costs; and if, therefore, a pending action can be absolutely brought to an end by a winding-up resolution, it is by no means inconceivable that in certain circumstances it would be worth the while of a company to wind up voluntarily for the sake of avoiding the payment of certain heavy costs which it would otherwise become liable for owing to the reckless defence of a valid claim.

In the case of actions instituted after the commencement of the winding-up, bearing in mind that the liquidator in a voluntary winding-up is in the nature of things the nominee of the members, there is clearly no valid reason why creditors should be expected as a matter of course to accept his ruling as to the justice of their claims. If such claims were in the first instance to be left for the liquidator to adjudicate upon, and he disputed them, he would naturally reject the proofs, and the matter would then come before the Court by way of an application to disallow the liquidator's

rejection. This, of course, would bring one back to the *status quo*; that is to say, the Court would ultimately have to decide the amount (if any) for which the claimant was entitled to rank as a creditor, and the preliminary inquiry of the liquidator would be so much waste of time. It may, of course, be argued that a liquidator ought to be allowed facilities for inquiry before making up his mind whether he accepts or rejects a claim, and that, until he has had such an opportunity, claimants ought to be restrained from commencing proceedings. In practice it is hardly likely that any claimant would be unduly precipitate in the institution of proceedings, for, in any event, he would only get a dividend on his costs, and in cases of distinct hardship it is, of course, quite conceivable that he might fail to recover his costs at all. But, as we have already pointed out, a voluntary liquidation is virtually a liquidation under the auspices of the debtor company, and therefore, *primâ facie*, there is no reason why creditors should be put to any inconvenience or disability in consequence.

An anomalous exception to this general, and eminently reasonable, rule is the absence of a landlord's right of distress against a company in liquidation in respect of rent accrued prior to the commencement of the winding-up. But even this does not apply to companies in voluntary liquidation; and although it is theoretically limited to rent which accrued prior to the commencement of the winding-up, in practice there would be no difficulty in obtaining from the Court liberty to distrain in respect of rent accrued on premises of which the liquidator retained possession.

It is worthy of note, moreover, that, even in cases where under Section 87 all proceedings are automatically stayed, the Court will grant

liberty to proceed, or will allow actions to be commenced in all suitable cases, notwithstanding the winding-up order. Thus secured creditors are, as a matter of course, given liberty to proceed with any action for enforcing their security, and, of course, a debenture-holders' action is a very common class of proceedings of this description with which all our readers will be familiar. And, again, where outsiders are involved in some dispute with the company, liberty to proceed will generally be given; and indeed, one might add, in all cases where such a course appears to be desirable.

The chief point, however, upon which misapprehension is so rife is that in a voluntary liquidation where the liquidator disputes a claim the claimant can at once bring an action in the ordinary course of events to enforce his rights, and is not even obliged to go through the formality of lodging a claim with the liquidator first, although doubtless that would be the most expedient course to pursue. Certainly, with regard to all actions pending at the commencement of a voluntary liquidation, the proper course for a plaintiff to pursue is to proceed with the action, unless and until the liquidator is prepared to admit his right to rank as a creditor in respect of both debt and costs.

Municipal Finance and Control.

IN our past two issues will be found articles in which various questions of considerable interest are raised as to municipal accounts, and the financial control exercised or to be exercised by local authorities over the affairs with which they are entrusted. The suggestions made in these articles have been intentionally limited to those matters which may fairly be said to come within the scope of the

reference to the Departmental Committee recently appointed by the President of the Local Government Board. The pressing need of the moment, however, is not so much a really good and reliable system of accounts (although, of course, that is an absolute necessity before any class of business can be conducted upon satisfactory lines), but rather a reorganisation which will go more to the root of the whole matter, and secure both a more effective and a more direct system of control by those who from time to time represent the majority of the ratepayers—and *per contra* a more definite responsibility for their acts and omissions.

At the present time, as our readers are doubtless aware, the majority of local elections are fought and won upon party lines, which almost invariably roughly follow the lines of cleavage observable at general elections. It would doubtless bother anyone to say *why* persons should be selected for the control of local affairs solely by reason of their opinions in connection with other and entirely irrelevant matters. In the nature of things, however, the majority of candidates are personally unknown to the majority of voters, and it is natural that *some* sort of process of labelling should be resorted to. Therefore the plan certainly has conveniences which—however illogical they may be—are such apparently as commend themselves to the national frame of mind, and are not likely to be readily abandoned merely because they are illogical. Under these circumstances it is unlikely that municipal or other local elections will ever be fought upon other than party lines, although doubtless in exceptional cases particularly prominent local men may continue to be

elected irrespective of—or perhaps even in spite of—their Imperial politics. The general system being thus regarded as a fixture, it remains to seen whether, without effecting any fundamental change, it would be practicable to introduce into local elections a little more of that life and enthusiasm which undoubtedly does influence general elections, and which, by keeping the pendulum more or less constantly in motion, secures the maximum amount of efficiency from both parties by the simplest possible procedure of making them assured that it is only by continued efficiency that they can continue to hold office.

Imperial Government, except so far as it is carried on upon strictly non-party lines, as in connection with purely administrative and judicial departments, is controlled entirely by the party which, for the time being, has secured a majority of seats in the House of Commons. That party is accordingly held responsible for the success with which the government of the country is conducted, and if it fails to satisfy the electorate it is displaced and the control handed over to the party which was formerly in opposition. In local government, however, nothing of the kind occurs. The administrative duties are, it is true, performed by permanent officials who are as independent of party influence as in the case of the central Government; but the actual business of the municipality or other authority is conducted by Committees, which, so far from consisting exclusively of members of the party in power for the time being, are chosen from the *whole of the Council*, roughly speaking, in proportions equivalent to the power of the respective parties on the Council itself. This is equivalent to members of the Opposition being appointed to all the subordinate positions in the

Government. It takes away from the party in power the sole responsibility for the conduct of business during its tenure of office, and by making the minority jointly responsible (in so far as there is any responsibility at all) it takes away from that minority its natural duty, as an opposition, of insisting upon reasonable discussion of all important steps before changes are effected, without hampering those upon whom the real responsibility rests in the carrying out of those schemes which have been approved by the majority. Theoretically, such a machinery is radically defective, and those who approach the matter dispassionately must, we think, impute much of the existing inefficiency of local Government to its machinery.

The evil does not, however, stop here. The present system, which in no effective way fixes responsibility upon the party for the time being representing a majority, naturally obscures the issue before the voters at the time of an election. However dissatisfied they may be with the existing position of affairs, they know that it has at all events not been entirely brought about by either side, and they therefore are not unnaturally somewhat sceptical as to whether any very material improvement is likely to be effected by an alteration in the balance of power. To this circumstance must, we think, be attributed the apathy of municipal voters, which is one of the most distinctive, and at the same time one of the most discouraging, signs of the present day. If the party in power for the time being possessed greater power, and a correspondingly increased sense of responsibility, it is only reasonable to suppose that that sense of responsibility would have a steadying effect and enable better results to be produced—which might fairly be expected, inasmuch as a freer hand would be

accorded. If, however, the result was still unsatisfactory, the electorate would at least know upon which party the responsibility rested, and might alter its vote accordingly, with the result that the pendulum would swing in local as in Imperial politics, and by that process the municipal machine might perhaps be induced to do its work.

Our suggestion is that in all forms of local government the party representing the majority in power should have the sole nomination on all Committees, and that upon it should devolve the sole responsibility of carrying on the business of the authority, and especially of its trading departments, leaving the minority for the time being free to criticise and advise. One immediate effect of the change would be that the members of the opposition, not being on Committee, would call for—and would by every reasonable majority have conceded to them—more information than is at present accorded to the Council, in such a form as to reach the electors through the press. The debates in the Council, instead of being hopelessly dull, would become animated and instructive in the extreme; successive parties would vie with each other to produce more satisfactory results during their respective terms of office; their policy would be more closely and intelligently followed by the electorate, and all persons concerned, from the highest to the lowest, would take a greater and more intelligent interest in what was really going on.

The one objection that could be raised to this plan is, it seems to us, that it would place too much power in the hands of the majority for the time being. This, however, will hardly bear examination. If the party which has secured the majority of votes cannot be

trusted with the powers we have enumerated, it is hardly to be supposed that the position is really likely to be improved by hampering it in its well-intentioned efforts by the opposition of a party which (for the time being) has been unable to secure a vote of confidence at the hands of the electorate. The opposition, if it knows its work, should always be able to throw sufficient light upon the debates to see that the electorate is kept informed as to what is going on. Moreover, the powers of no local authority are unlimited. On the contrary, they are limited somewhat strictly by statute, and still further in practice by the control exercised by the Local Government Board. There would thus in local affairs be far less danger of extremes, as a result of casting a full measure of responsibility upon the party for the time being in power, than in Imperial affairs. Individual members would naturally under such circumstances occasionally vote with the opposition, in order to place themselves right with the electorate, and thus the party for the time being in power would, if it abused its opportunities, speedily find itself in a minority.

The scheme would doubtless require elaborating in points of detail; but in principle we feel sure that it has within it the seeds of success, and represents practically the only way of bringing the requisite amount of public attention to bear upon local affairs. It might be elaborated by giving the Local Government Board power to dissolve the Council and call a general election at any time, or it might require such an election to be held whenever a loan applied for by the local authority had been refused, or whenever a prescribed minority of voters petitioned the Local Government Board. In the first instance, however, we think that

the scheme, as we have outlined it above, would be found a sufficient departure to be well worth a trial as it stands; and, were it to be tried, there can be little doubt as to its ultimate success, although in the nature of things it would be some time before its numerous advantages would become sufficiently apparent to be duly appreciated.

Weekly Notes.

Claims under Fire Insurance Policies.

In another column of the present issue we reproduce an interesting article, which recently appeared in the columns of *Lloyd's Weekly News*, on the subject of the terms of fire insurance policies and the procedure when claims arise in respect thereof. This article is obviously written in a popular vein, and therefore contains much that will doubtless be more or less common knowledge to the majority of our readers. At the same time it is well worthy of careful consideration, in view of the very general impression that British insurance companies may always be safely relied upon "to do the fair thing," and that, therefore, there is no necessity for the assured to observe such ordinary and business-like precautions as he would undoubtedly take when embarking upon any ordinary business transaction. The reputation for generosity enjoyed by British insurance companies is undoubtedly well deserved, but it is obviously straining matters unduly if the assured trades too much upon this weakness. He should remember that this generosity does not arise out of any philanthropic instinct, but is merely a business policy deliberately pursued for the sake of the excellent advertisement it provides. Except as a comparatively inexpensive means of securing further business, an insurance company would not be justified in throwing away its shareholders' money in voluntary gifts, even although the recipients of those gifts might happen to be old customers who had suffered losses under unfortunate circumstances. This being the true aspect of the situation, it is clear that all persons insuring against fire should do so upon proper business lines. They should see that the insurance is for a sufficient amount, to avoid loss under the working of the average clause; but nothing can be gained by over-insuring, inasmuch as under no circumstances is the assured entitled to a

profit. They should see that sufficient evidence is contained—either in fire-proof safes or upon premises other than those where the goods insured are situated—to enable a claim to be accurately and readily compiled; and, instead of repining because an ordinary insurance policy does not protect them against consequential loss, they should, if they desire to be insured against this risk, take out a special policy for that purpose with a company that is prepared to undertake that particular class of business. There is no difficulty in insuring against loss of rent, or loss of profit, arising from fire; but such losses are *not* comprised in the ordinary policy insuring business premises and their contents. Similarly, the owners of offices, or other parts of a building, should remember that a policy insuring the contents of their rooms will not pay for the cost of redecoration as a result of fire. For that purpose a special insurance must be effected.

Forged Transfers. As previously stated, the decision of the House of Lords in the case of *Reuben and Ladenberg v. The Great Fingall Consolidated, Lim.*, upholds that of the Court of Appeal, which held that a share certificate, even although sealed with the common seal of a company, and signed by two directors and countersigned by the secretary, is a mere nullity, if in point of fact it be at law a forged document. Persons advancing money on the faith of such a certificate must therefore lose it, and the company is not liable to make good loss caused by the fraudulent and unauthorised acts of its servants. This decision is no doubt satisfactory from the point of view of all who are interested in companies; but it is desirable that those who part with money in exchange for documents of any description should henceforward be fully acquainted with the extent of the not inconsiderable risks that they run.

The Law as to Receipts. Popular misconceptions of the law die hard, and that relating to receipts which constitute an effective discharge for a debt is no exception to the rule. Accordingly, it seems desirable to draw attention to a case which came before his Honour Judge Edge a short time since, in which the defendant produced a receipt signed by the plaintiff "in settlement of all claims," and pleaded that that debarred the plaintiff from again asking for the debt, and that upon this evidence the plaintiff ought to be non-suited. The plaintiff, on the other hand, said that

when he gave the receipt for 17s. he thought that that was all that was owing; he had since found out, however, that a sum of 28s. was due. His Honour held that a man who has a debt owing to him and agrees to take one-half is not bound by it; he accordingly decided in the plaintiff's favour. It is worth pointing out in this connection, however, that it has been held that where a cheque, or other negotiable instrument, is accepted in payment of a larger sum due, the giving of that negotiable instrument constitutes a valid consideration, and that accordingly a receipt in full discharge given under those circumstances is effective.

The Burden of the Townsman. A recent article in *The Financial News*, contrasting the National Debt figures with local indebtedness, points out that the returns of local debt are so belated that only those for 1901-2 are as yet complete! It is also said that local or municipal debt means much more than the debt of municipal corporations and county councils. In London it is said to cover not only the debt of the County Council but also that of the City Corporation, the indebtedness of the twenty-eight or more Borough Councils, the Water Board, the Metropolitan Asylums Board, the various Boards of Guardians, and several "smaller fry." Our contemporary would express no surprise if the total debt of London mounted up to £150,000,000, or £30 a head for every man, woman, and child! The exact amount of local or municipal indebtedness can only be hazarded. Lord Avebury estimates the amount for 1903-4 at £469,000,000, and if this figure be only approximately correct, the total is sufficiently large to make even the most ardent municipalist pause, if he would but think. It is to be hoped that retrenchment will come soon enough to prevent it being compulsory.

A New Stamp Act. It is reported that a Bill has been presented to the Dutch States-General under the provisions of which meat for consignment abroad must bear a stamp indicating that it has been officially examined. We are not told whether the Bill indicates the place where the stamp is to be affixed or impressed!

The Latest Thing in Circulars. The following circular, which has been widely distributed in a provincial town, will doubtless be found to be at once amusing and

enlightening. The many-sided "accountant" does not at present take orders for coal!—

Important! Kindly keep this Circular before you in your Office, to refer to when needed.

To ———,

From ———, Accountant,
————— Street, ———.

All Business entrusted to me treated in strict confidence.

Advice free regarding financial matters.

Copying of Legal Deeds, Documents, Leases, &c., executed with great attention at small cost.

Professional gentlemen, and those in business will save much time and worry by placing overdue and doubtful accounts in my hands for collection, thereby saving subscriptions and annoyance to their customers by publicity in trade journals. I only ask 4 per cent. commission on results.

I am also prepared to attend your place of business, once weekly, to enter up and balance books, make out accounts, and attend to any other work requiring attention, at a small inclusive fee of £2 2s. a quarter. Contracts, Estimates, &c., copied for Builders and others, 1s. 6d. per folio.

Any kind of writing work undertaken with promptness and accuracy.

—————,
Land, House, and Estate Agent,
————— Street, ———.

Undertakes with great care and personal attention:—

Sales, by private treaty, of Landed Estates, House Property, Life Policies, Shares, &c., Letting of Houses (Furnished and Unfurnished) in Town and Country, Residential and Landed Estates, Farms, Shops, &c.

Inventories of Household Furniture and personal effects prepared, and sold, if desired, by private contract.

Estates managed, Rents collected, Valuations for Probate, Mortgages, Transfers, &c., carefully prepared. Businesses satisfactorily disposed of and purchased.

Advice on all matters gladly given free.

American Railway Rebates. A Reuter's telegram announces that the first Federal Grand Jury has returned ten indictments before the United States Circuit Court. It is interesting, and quite within the magnitude of things American, to note that the indictments are said to contain 6,420 counts, all of which are in connection with the granting of rebate by railway companies, whose names are not, however, mentioned.

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinions expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Form of Accounts for Local Authorities.

(To the Editor of The Accountant.)

SIR,—One must welcome any attempt to throw light upon this important subject, and your suggestion whereby the views of practical accountants may be obtained and codified, and of placing these before the Departmental Committee appointed to consider the Accounts of Local Authorities, by the President of the Local Government Board, is an excellent one; but one could have welcomed it very much more had it been made earlier. I understand the Departmental Committee have already before them the bulk of the evidence that is proposed to be taken, and my only fear is that it may be too late now to submit to them the information which will be forthcoming in response to your suggestion, and which, doubtless, will be of considerable value, as there are many accountants who have devoted special attention to this subject who would be able to put before the Committee much valuable information and many points of interest, but who have not, before, had an opportunity of doing so.

However, I trust my fears on this score may prove to be quite groundless, and that the information may be placed before the Departmental Committee in time for them to fully consider it prior to their report on the subject being drawn up.

One of the first questions to be considered, and one of the most important (if not the most important), is the adoption of "income and expenditure" as the basis upon which the accounts of local authorities shall be kept. Unless, and until, this basis is adopted it will be impossible for an accurate Balance Sheet to be prepared, which is essential if anything like a correct idea is to be given as to the financial position of a local authority; the present form of financial statement prescribed by the Local Government Board is valueless as a means of indicating this.

I trust that very strong efforts will be made to secure the adoption of "income and expenditure" as the fundamental basis for the accounts of all local authorities for the future.

I understand that several of the gentlemen who have given evidence before the Departmental Committee have urged the advisability of adopting this basis. I believe the Local Government Board's Inspector of Audits is in favour of it, as also are several of the Board's district auditors who have been invited to give evidence. It would therefore appear there is reason to believe that the Local Government Board may decide upon the adoption of this system in the near future.

In districts where the accounts are kept on a basis of receipts and payments I have known cases where payment of accounts has been deliberately held over, in order that the accounts, as presented, should show a credit balance at the end of the financial year! By adopting the income and expenditure basis the necessity for this kind of thing will be obviated, as it would then be immaterial whether payment was made before the close of the year or not, as, if not, the amount due would be shown as an outstanding liability—which, of course, would not be the case if the accounts were kept on a cash basis.

As for a Receipts and Payments Account being also prepared, I cannot perceive of what use such an account would be. I may say I have gone to the trouble of having one prepared so far as relates to the accounts of my own Council, but I am bound to admit it has been practically useless, and most certainly, in my opinion, did not justify the additional time and trouble involved in its preparation.

Another matter which calls for special attention, and which certainly requires improving, is the form of financial statement prescribed by the Local Government Board. The present form is altogether inadequate, and, as I have previously stated, is valueless as a means of indicating the financial position of a local authority; indeed, it is often quite misleading.

In order to show how really misleading it is, the following instance—one out of dozens of similar instances—may be quoted: The amounts shown under the headings of "Receipts from Electricity Works" and "Payments in respect of Electricity Works" of the ——— Local Authority, are given as Receipts £7,684 16s. 4d., Payments £3,907 2s. 1d. It would appear from these figures that this particular undertaking was a good-paying concern, and that a

profit of £3,777 14s. 3d. had been made; but when it is pointed out that the statutory Sinking Fund instalments and Interest on Loans are not included in the payments (but are included along with the Sinking Fund instalments and interest in respect of all other undertakings under the heading "Sinking Fund Instalments and Interest on Loans") it places rather a different complexion on the matter. The average individual would conclude the profit was £3,777 14s. 3d., and there is nothing in the present form of the statement to indicate that such is not the case. Moreover, it is impossible to ascertain from the statement what the profit really is; the Sinking Fund instalments and interest on loans being, as they are, all grouped together and entered under one heading, renders this impracticable.

The following practice which obtains renders the financial statement even more complicated and confusing. When a local authority expend capital outlay for which they have obtained the sanction of the Local Government Board to raise the loan, but have not at the end of the financial year raised the loan, the sum expended is shown in the *Revenue* portion of the statement. The following instances may serve to more clearly illustrate my meaning:—A local authority obtained the sanction of the Board to borrow £1,330 for town hall extensions; the work was carried out and paid for out of moneys in the hands of the Treasurer, but the authority had not at the close of the financial year been able to borrow this sum. Consequently the amount expended on the extensions was added to the "Town Hall expenses" in the Revenue portion of the statement, and the expenditure shown under this head was £1,687 8s. 11d., whereas the actual expenditure chargeable against the rates under this particular head was about £350.

In another case the local authority had obtained sanction to borrow £5,000 for a street improvement. The work was carried out by the authority's own staff of workmen, and at the 31st March £1,447 6s. 9d. had been expended thereon; the authority had not up to that time raised any portion of the loan sanctioned. The £1,447 6s. 9d. had to be entered in the Revenue portion of the statement—notwithstanding that it was capital outlay—under the heading "Expenses on Roads other than Main Roads."

Mark what follows. When these particular loans are raised the amounts expended will be shown *again*, in the following year's statement as "Expended out of Loans," and the corresponding amounts will be

entered in the Revenue portion of the statement as income.

As regards the loans portion of the financial statement, one has to make adjustments of this kind every year in order to find the amount to be inserted in the statement:—

	£	s	d
Amount expended, as per Ledger	4,368	4	2
Add Amount outstanding at 31st March 1905 due to Sundry Tradesmen, paid during year	767	8	3
	5,135	12	5
Deduct Amount outstanding due to Sundry Tradesmen at 31st March 1906	428	17	11
Amount (to be inserted in Financial Statement) paid out of Loans	£4,706	14	6

It will be seen that the Ledger amount does not correspond with the amount appearing in the financial statement. This is so in nearly every case; indeed, the Ledger figures are almost useless for the purpose of preparing the financial statement!

As regards the question of the inadequacy of the statement, often three or four Ledger Accounts have to be grouped and entered therein under one heading; only one line is given for receipts from gasworks, and another for the payments, whereas at least half a dozen are required. The same as to waterworks, electricity works, &c. Only one line is given for "Balances in hand at end of year." Considering that in the case of my own Council there were over forty balances in the hands of the Treasurer and other officers, balances due from ratepayers, electricity consumers, private street works frontagers, and other sundry debtors, as well as stocks of materials on hand at the end of the year, the absurdity of allowing only one line for these will readily be perceived.

Personally, I would rather prepare half a dozen Balance Sheets than one of these financial statements, and often a "key" to it has to be prepared by the accounting officer in order to explain to the auditor how he has arrived at the amounts appearing therein!

There is little doubt that the present form requires very considerable amendment, and district auditors themselves are looking forward to a vastly improved form for the future. There is need of it.

One other matter which the Departmental Committee would do well to consider is the period of the rate. The rate only covers the period from the date it is levied to the 31st March next following (Section 11 (2) of the Public Health Act, 1875). As I have previously pointed out ("Urban District Councils' Accounts," p. 4), where the rate is levied, say, on the 1st July, there would be no rate in force between the 1st April and the

30th June, and a person occupying a house or other hereditament between those dates could not legally be compelled to pay rates for that period, there being no rate in force; on the other hand, a person going to reside in that district on the 1st July would have to pay the full amount of the rate instead of $\frac{1}{2}$, had the rate been levied on the 1st April. Of course, it would be impossible to make the rate "continuous" without amending Section 11 (2) of the Public Health Act, 1875, but the Local Government Board could insist upon the rates being levied in every district on the same date, or the section of the Act above referred to should be amended so as to make the rate a continuous one.

Referring to p. 202 of last week's issue of *The Accountant*, on which are set out the "requirements" of a system of local authorities' accounts: these are fairly comprehensive, but I think it is possible for a system to be drawn up which will meet to a large extent, if not fully, all the requirements mentioned.

To take these in the order enumerated.

1.—"To supply such information as may be necessary "to enable the officials to see (a) that all moneys "receivable are received, and (b) that no accounts are "inadvertently paid twice over."

There should be little difficulty in satisfying this "requirement."

All moneys receivable—other than rates, gas rentals, water rentals, &c., which are dealt with in the Rate Book, Gas Consumers' Ledger, Water Consumers' Ledger, &c.—should be entered into a Day Book or Journal as they become due, the Impersonal Accounts being credited, and the persons from whom they are due being debited therewith, and the accounting officer should see that accounts therefor are rendered periodically.

As regards irrecoverable items, a list of these should be prepared by the responsible officer, and submitted to the authority, and the list should state clearly the reasons why the several amounts have not been paid.

As to payment of accounts, I think one of the best means of preventing accounts being paid twice over is to have a Personal Account for each tradesman with whom the Council do business. The tradesmen's credits are obtained from the Invoice Journal and the debits from the Cash Book when payment is made. If a careful comparison is made of the accounts received for payment—first with the Invoice Journal, and, if considered necessary, afterwards with the

tradesmen's Personal Accounts in the Ledger—it is difficult to perceive how accounts should inadvertently be paid twice over.

Unfortunately, the practice of keeping a Tradesmen's Ledger is not so frequently adopted as it deserves to be; moreover, it is submitted that if a proper system of double-entry bookkeeping is to be followed, a Personal Ledger is essential.

2.—“To enable a proper supervision to be exercised over those charged with the handling of moneys or stores.”

One of the most simple and yet most effective checks upon all officers in daily receipt of moneys is for the officer to deposit with the Treasurer *the exact amount* of one day's collections *the following day*. It is an unwise policy to allow collectors to retain cash in their hands for a longer period than is necessary. The daily totals of their collections should be clearly shown in their Cash Books. The collector's receipts should also be checked periodically by the responsible accounting officer, who should satisfy himself that the total amount of each day's collections is deposited with the Treasurer the following day.

As regards the checking of stores, a record should be kept by the storekeeper of all materials received into or delivered from the stores yard.

The stores yard debits should agree with the amounts charged against Stores Account in the Invoice Journal, and the accounting officer can readily ascertain from this latter book what stores have been taken to the stores yard.

Stores should not be delivered without a written order from a responsible foreman, and these orders should be handed to the accounting officer for comparison with the delivery notes issued by the storekeeper. This will enable an effective check to be made upon all stores delivered.

A stocktaking should take place periodically. The accounting officer will always be able to ascertain from the Stores Account a fairly accurate idea of the amount of materials there should be on hand, and if the stock be taken fairly often, it will afford a further check.

3.—“To enable the members of the local authority to exercise due supervision over the employees.”

This requirement presents some amount of difficulty. The local authority are dependent to a very great extent upon their responsible accounting officer for information which would enable them to exercise any amount of supervision over the employees. The local

authority should appoint an accounting officer who should have the supervision of, and be responsible for, the whole of the accounts, and whose duty it should be to report thereon to the local authority periodically; a thorough systematic examination of all the accounts should be made each month, and the officer whose duty it is to examine the accounts should report to the authority the result of such examination or audit.

A comparative statement showing (a) the amount of the estimated expenditure for the year in respect of each purpose, (b) the proportion of such estimate to the date the statement is made up to, (c) the amount over—or under—expended on the estimate, and (d) the actual expenditure, should be prepared each month. The same with respect to income.

Such a statement, prepared and submitted to the Council every month, will enable the members to see at a glance how the expenditure under the various heads compares with the respective amounts estimated to be expended, and any tendency to over-spend is at once apparent and may be arrested. Furthermore, in order to ensure the accuracy of the statement, the accounts will require to be kept thoroughly up to date.

4.—“To enable the Local Government Board to exercise due supervision over the local authority.”

Too great an amount of supervision by the Local Government Board over the local authority is not desirable, nor is it calculated to be of benefit; all the supervision necessary is to require from the local authority an annual return showing (1) the income and expenditure of each department separately and distinctly (part of the expenditure of one department should not be grouped with part of the expenditure of several departments—which is done at present). (2) A copy of each Balance Sheet—that is, a Balance Sheet for each department—together with copy of the aggregate Balance Sheet. The return should also provide means whereby the Local Government Board are able to ascertain that the local authority are making due provision for the repayment of their loans within the period allowed.

It should be the duty of the auditor to satisfy the Board that expenditure out of loans has been for the purpose for which it was sanctioned, and also that loans are not raised without the local authority having first obtained the Board's sanction thereto.

It should also be open to the auditor to direct the attention of the Board to any expenditure which may have been unreasonable or ill-advised. At present the auditor can only take exception to any payment that

is illegal; he cannot raise objection to any payment, if legal, however excessive, unreasonable, or ill-advised.

Surcharges should be abolished on the ground that the bulk of them are in respect of payments which are merely technically illegal; the expenditure may have been *bond fide* in the interests of the good government of the district, but if technically illegal it is surcharged, and this leads to an enormous amount of unnecessary correspondence. Moreover, something like 90 per cent. of the number of surcharges are afterwards remitted by the Local Government Board, which is ample proof, if any were needed, of the futility of surcharges.

It has been argued that some amount of restraining influence upon local authorities' expenditure is necessary, and that the best means of effecting this is, that all expenditure which may have been illegal should be surcharged. To my mind this will be more effectually brought about by the publication of local authorities' accounts in a clear and concise form enabling ratepayers to judge for themselves whether the local authority have exercised efficiency and economy in the administration of the town's affairs than by the surcharging of certain items of expenditure. Members of local authorities would probably be restrained from injudicious or excessive expenditure, more by the adverse opinion of their constituents than by the powers of surcharge possessed by the Local Government Board's district auditors.

5.—“To enable ratepayers to judge as to the efficiency and economy with which the local authority discharge their duties.”

The publication of the accounts of local authorities in a clear and concise form containing a separate Balance Sheet for each department, and an aggregate Balance Sheet showing the surplus of outlay and assets over liabilities, together with the report of the accounting officer, and also the report of the auditor, should do much to enable ratepayers to judge whether the local authority are exercising efficiency and economy in the discharge of their duties.

An account showing the *estimated* and the *actual* expenditure in respect of each purpose may prove useful, as it will serve to show ratepayers whether the estimates have been exceeded, or the reverse. The published accounts should also clearly show whether all or any of the reproductive undertakings possessed by the local authority have yielded profits, or if any of

these have necessitated a call on the rates; the average rate of interest paid on loans should also be stated.

6.—“To enable investors who have lent money to local authorities to judge as to the soundness of their investment.”

A perusal of the aggregate Balance Sheet will enable investors to judge as to the soundness of their investment—that is, if the surplus of outlay and assets over liabilities is clearly shown therein.

In the case of stocks investors are enabled to judge fairly accurately—apart from the published accounts of the authority—as to the soundness of their investments by the price they are quoted at in the Money Market.

So much as regards the requirements enumerated in the memorandum submitted to the Departmental Committee.

The question of depreciation in connection with reproductive undertakings is also one that the Departmental Committee might with advantage inquire into. There is no doubt that some provision should be made above and beyond the statutory Sinking Fund instalments, inasmuch as no part of the Sinking Funds can be utilised for the renewal of worn-out machinery or plant, nor in fact for any other purpose whatsoever than the redemption of loan indebtedness; and in case of a breakdown occurring, unless some provision is made annually for such a contingency the local authority might find themselves in a very awkward position.

What I think might with advantage be done would be for the Local Government Board to grant local authorities a longer period for the redemption of loans raised on such undertakings as gasworks, waterworks, electricity works, tramways, &c., and to insist upon provision for depreciation purposes at a certain ratio upon the capital outlay. This, I consider, would be a great advance on the present practice of granting only a comparatively short period for the repayment of the loan indebtedness, and not insisting upon any further provision for depreciation purposes.

In many cases, the amount of the statutory Sinking Fund exceeds the amount which would be necessary to set aside for ordinary depreciation purposes, yet, notwithstanding this, any renewals of plant or machinery would have to be made good out of revenue; whereas if a longer period were granted for the repayment of loans—necessitating a reduced Sinking Fund—and some further provision made for depreciation purposes.

renewals of plant, machinery, &c., could be made out of the funds thus provided.

Considering the shortness of the period allowed for the repayment of loans, it is somewhat of a hardship upon local authorities to have to provide a fund for renewals and replacements in addition to the statutory Sinking Fund, yet it is the wisest course to adopt.

There is just one other point I would like to refer to, that is with reference to the levying of one rate to cover all classes of expenditure. No doubt this is very desirable; but it will require an amendment of several existing Acts of Parliament to enable local authorities to do this. For instance, the incidence of rating for the borough rate is different from that for the general district rate. The rateable value upon which the borough rate is levied is invariably greater than the rateable value upon which the general district rate is levied; certain properties which are rateable at "one-fourth the net annual letting value" for the general district rate, are rateable at *full* for the borough rate and at *one-half* for poor rate purposes. If there can be a single uniform rate it will save a great deal of trouble and expense, and will considerably simplify matters.

I fear I may have dwelt at too great length on the subject, but it is a subject that when one is once launched upon it, it is difficult to know when to call "Halt!"

I am, Sir, yours faithfully,

FRED. S. ECKERSLEY.

St. Annes-on-the-Sea, 28th August 1906.

B.Sc. (Economics).

(To the Editor of The Accountant.)

SIR,—Referring to the letters of "Fledgeling" and "A.C.A.," I can perhaps give them a little information on the attitude of the London University authorities on the matter of modifying the Matriculation Examination in the case of members of our Institute. On looking at the lists of compulsory subjects in the Matriculation and Inter. B.Sc. Examinations it was apparent to me that anyone who had left school many years behind, would, after passing Matriculation as set down, have to start preparing certain subjects before he could begin the work for Inter. B.Sc. with any hope of success. I accordingly wrote the Registrar of the University asking if the subjects of a scholastic nature, with which for the purposes of Inter. B.Sc. it was necessary to be familiar, could constitute a Matriculation Examination

for me. The reply was that the regulations for Matriculation could not be altered. The subjects are as follows:—French, German, Mathematics or Logic, History, and Geography. These five subjects (five is the number in the regulations) would constitute quite as stiff an examination as the compulsory subjects, and would enable a man to start straight away on the work for Inter. B.Sc. I think my request was reasonable, and I should like to hear that the Council of our Institute would approach the Senate of the London University on these lines.

Yours faithfully,

29th August 1906.

RISING THREE.

A Bookkeeping Question.

(To the Editor of The Accountant.)

SIR,—Would you be so good as to settle a little question which has arisen between myself and two leading accountants:—Johnson & Co. sell oil to Smithson & Co. (Canada) for £300. An invoice is sent to Smithson & Co. for this amount. The oil market rises, and Smithson & Co. inform Johnson & Co. that they are willing to resell the oil back again for £357. Johnson & Co. accept and send a cheque for the difference, £57. The goods have not been moved during these transactions. My entries are:—

SALES ACCOUNT.

	By Smithson & Co. ..	£	s	d
		300	0	0

PURCHASES ACCOUNT.

To Smithson & Co. ..	£	s	d
	357	0	0

SMITHSON & Co.

To Sales	£	s	d	By Purchases	£	s	d
" Cheque	300	0	0		357	0	0
	57	0	0				
	£357	0	0		£357	0	0

CASH BOOK (JOHNSON & Co.'s).

	By Smithson & Co. ..	£	s	d
		57	0	0

My auditors say that the £357 in Purchases Account and £300 in Sales Account should not be taken into consideration at all, and the £57 paid be posted direct to Profit and Loss Account.

I contend that I am right, as the sale and purchase



THE LATE HUGH BLAIR, Esq., C.A.

are perfectly genuine, and an action would be successful if delivery was demanded by the buyers in the first case, and also if the £57 was debited to Profit and Loss direct it would be a gambling transaction—i.e., gambling in differences, and illegal. The gross percentages of profit or loss would also be affected.

Yours faithfully,
WEARY.

Elective Auditor's Qualifications.

(To the Editor of *The Accountant*.)

SIR,—Will you kindly inform me whether a person holding an appointment as Registrar of Births and Deaths is eligible to hold office as elective auditor, or does his official appointment preclude him from holding such office?

31st August 1906.

[Yes, he is eligible.—Ed. *Acct.*]

Yours truly,
CAERDYDD.

Interest on Estate Duty.

(To the Editor of *The Accountant*.)

SIR,—Will you or any readers of *The Accountant* express an opinion upon the law relating to the above interest. Under the Finance Act, 1894, such interest was deemed a charge against capital, the authority being the Act itself, which states: "Such interest shall form part of the estate duty."

This was supported in *In re Fish; Lea v. Fish*, decided in 1896 (upon the Act of 1894); but not reported until 1897.

The wording of the Finance Act of 1896 was, however, slightly different from the Finance Act, 1894, being as follows:—

"The interest shall be recoverable in the same way as if it formed part of the estate duty," and because of such change several writers now deem the interest to be a charge against income. It appears to me to be a very slight ground for the change in treatment, and I shall be obliged if you can tell me of any case decided since 1896 dealing with the question.

Thanking you in anticipation,

Yours truly,
A. W.

Obituary.

Hugh Blair, C.A.

We deeply regret to record the death of Mr. H. Blair, C.A., York Place, Edinburgh, which took place very

suddenly on the 20th ult., at his summer residence at Radella, North Berwick. The cause of death was heart failure. Mr. Blair, whose portrait we give in this issue, was one of the best known and most highly respected members of the Society of Accountants in Edinburgh. The third son of the late Hugh Blair, W.S., of Auchenreoch, of the Stewartry of Kirkcudbright, he was born in 1844. The late Sheriff Blair of the Lothians, and Mr. Patrick Blair, W.S., were his brothers. Mr. Blair was educated at Edinburgh Academy, at Rugby, and at Edinburgh University, and was admitted as a member of the Society of Accountants in 1869. He became a partner of the firm of MacAndrew & Blair, C.A., in 1874. He was elected a Fellow of the Faculty of Actuaries in 1870, and in 1901 he was made President of the Society of Accountants. Mr. Blair held many important appointments, among them being the auditorship of the Scottish Equitable Life Insurance Society, the Clydesdale Bank, the Faculty of Advocates, Merchants' Company of Edinburgh, George Heriot's Trust, the Royal Infirmary of Edinburgh, and the Edinburgh School Board. He was also actuary of the Widows' Fund of the Faculty of Advocates. The remains of the deceased were interred in the Dean Cemetery on the 23rd ult. A service, at which the Rev. Canon Cowley Brown officiated, and which was attended by a large number of the deceased's friends, was held in the Church of St. John the Evangelist, in Princes Street, Edinburgh. After the service in the church the coffin, which was covered with flowers, was carried from the church, the Dead March in "Saul" being played meanwhile, and was conveyed to the Dean Cemetery in the presence of a large body of mourners.

Local Authorities and their Work.

By PERCY ASHLEY, M.A.

A PAPER read before the London Society on March 21st, Mr. W. H. Fox, F.C.A., presiding.

The subject on which I have been asked to address you this evening is very large and complicated, and accordingly in the short time at my disposal I propose not to attempt to enter much into detail, but rather to invite your consideration of certain broad aspects of this very important matter of local government.

It may be convenient to start with a definition—that "local government" means in this country the discharge by the inhabitants of a defined area, either directly or through elected representatives, of the powers and duties

within that area with which they have been invested by parliamentary enactment, or which devolve upon them at common law, such action being subject to a varying amount of control exercised by the central Government. That definition—for which I do not claim the merit of absolute scientific completeness or accuracy—contains within itself most of the general principles to which I would ask your attention to-night.

(1) The first point is that the work of the English local authorities represents much the greater part of the actual work of government in this country, and that it touches the ordinary citizen much more immediately and closely than the work of the central Government; in fact, it has been said, and without much exaggeration, that practically all government in this country is *local* government. If we exclude the Army and Navy, the administration of the national finances, and the enforcement of legislation affecting the conduct of trade and industry, we find that the functions of the various departments are confined to the aiding, direction, supervision, and guidance of the action of the numerous local authorities of one kind and another, which are entrusted with the conduct of all the other multitudinous public services which the modern English citizen demands from the State, or which experience has shown that it is desirable for the State to undertake.

This practice of devolution—that is, the transference of many of the tasks of the central Government to authorities, representatives of localities, and acting under a varying amount of central control, and with more or less of discretionary power—this devolution has gone further in this country than in any other State of Europe. The policy has been dictated partly by administrative convenience; the experience of many States, ancient and modern alike, has shown that in the long run it is impossible to carry on the administration of a large country, and to deal with the needs of a great population, from a single centre and by means of a body of mere officials. The results are always the same—attempts to force all action into a common mould; indifference to local peculiarities and varieties of local needs; the consequent over-burdening of the officials; popular indifference, or even hostility, to the work of government; and ultimately a collapse of the whole organisation. This brings us to a second reason for the policy of devolution—the political motive. It has been found desirable to endeavour to develop the “political habit” amongst the citizens—that is, to train them in the conduct of affairs, to accustom them to the sense of responsibility, to awaken and maintain interest in the management of the nation's business. I need hardly remind you of the commonplace of most English and foreign political students, that the large measure of success achieved by the English Parliament in com-

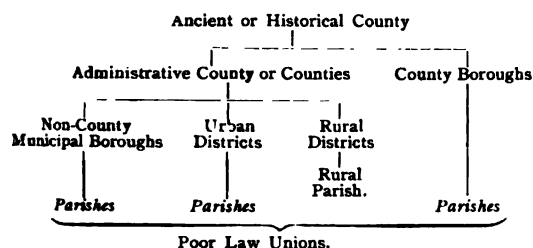
parison with similar institutions abroad has been due to the fact that the English Parliament is only the crown of a system of self-government to which the people were accustomed in the local assemblies, and that the great leaders of the Parliament in the struggle against the arbitrary power of the Crown in the seventeenth century were men who had been trained to habits of business and responsibility in the conduct of local administration. And this suggests a third point, that the devolution policy which has been described has been due largely also to the tradition of “local self-government,” which has always been in existence in England, even though the practice became extremely weak at times, notably in the eighteenth century. The ordinary Englishman still, I think, regards “central government” as something which is inclined to be tyrannical, and the right of “local self-government” as a possession with which no Government may properly interfere.

(2) In the nineteenth century there was a remarkable growth of local government in this country, partly owing to the ever-increasing demand for fresh services to be rendered by the State, and in part due to the rise of democracy. The development of local institutions in England followed last century upon the changes in the constitution of the national Parliament, and were part of the same reform movements. Thus the first Reform Act (1832), which destroyed the power of that oligarchy that had so long ruled England through its control of the composition of the House of Commons. That Act was followed in rapid succession by the reorganisation of the relief of the poor, and the establishment of universal elected boards for that purpose in place of the old, almost irresponsible, justices of the peace; the reform of the municipal corporations, which swept away the old self-recruiting bodies, enjoying special privileges and administering corporate property for their own benefit, and replaced them by authorities elected on a wide suffrage; the commencement of a system of national education, and the first faint beginnings of that care for public health which has done more than anything else to develop our English local authorities.

The second Reform Act (1867), which in the actual numbers to whom it gave the parliamentary franchise went very much further than the Act of 1832, was followed by the establishment of elective educational authorities and universal sanitary boards. Then, finally, when the agricultural labourers had been given the right to vote at parliamentary elections in 1884, it was felt that the long-contemplated reform of county government could no longer be postponed; and in 1888 the justices of the peace, who were appointed solely by the Crown, were replaced in the county administration by elected councils. Six years later the Liberal Ministry completed the work of their Con-

servative predecessors by the creation of parish councils. Thus as Parliament has become more democratic, as the principle of popular government has been asserted more and more in national affairs, so the application of the same principle has been constantly extended in local affairs also.

(j) We may next notice briefly the areas of local administration, which are of six different kinds (exclusive of the metropolis, which has a special organisation and need not be discussed here). The following diagram shows the general scheme:—



Notes.—

- (i.) The ancient or historical county is divided into an administrative county (or in ten cases two, or even three, administrative counties) and county boroughs. These latter are large towns (50,000 inhabitants at least) which are excluded from the area of the administrative county; some of the powers of a county council are exercised in such boroughs by the town councils.
- (ii.) The administrative county includes non-county municipal boroughs, urban districts, and rural districts (which are groups of rural parishes). The county council contains representatives of all these areas, and has powers and duties in all of them. It has some control over the proceedings of rural district and parish councils.
- (iii.) The difference between municipal boroughs and urban districts is not one of size; it is often merely historical. Many urban districts are larger than most municipal boroughs.
- (iv.) The parish is an area for general local government purposes only in the rural portions of England; in the urban areas it is important merely for some subsidiary purposes of poor law administration.
- (v.) The poor law union is a group of parishes formed for poor law purposes; it may be entirely urban, entirely rural, or mixed. Its boundaries do not necessarily coincide with those of any other area.

These areas fall into groups, which we may call *natural* and *artificial*. The first includes the historical areas—the *ancient* (for even where the ancient county is divided into two or three administrative counties these divisions usually follow more or less historical or traditional lines)

and the older municipalities; and the more or less definite social groups—the urban aggregations or the parishes. In the other set—the artificial areas—are the rural district and the poor law union, which are almost purely arbitrary groupings of parishes, dictated solely by administrative convenience, since, for the particular services which the authorities of these areas have to administer, the single parish was found to be much too small for satisfactory work. This is true of many of the other powers left still to the parishes. The area is too small for an effective use of them; but these powers are in the main optional, not compulsory, and do not come within that minimum of services which the State requires to be rendered more or less efficiently. The real justification for reviving and continuing the parochial organisation is the desirability of interesting as many persons as possible in the conduct of local affairs; and it is scarcely necessary to say that the local authorities are most active, and popular interest in their work most keen, in the “natural” areas. This suggests a point of considerable importance—namely, that though it is unquestionably true that on grounds of mere scientific organisation it would be well to make an absolute and complete rearrangement of all our areas of local administration, we must yet take care that by such action we do not reduce seriously the real effectiveness of our local government by diminishing popular interest through the erection of a purely artificial organisation.

(4) In each of the areas named the central fact is the presence of a council, elected by popular vote; all else—the mayor and aldermen in the municipal boroughs, and the aldermen in the counties—is mere trimming: the essential and predominant fact is the council. The whole body of citizens come together only in the parish meeting of the rural parish, which meets at fixed intervals, but in the larger number meets simply to elect the council or review its proceedings, and in the town's meetings occasionally held in municipal boroughs and urban districts. The council is elected usually for three years. Sometimes the whole is renewed every third year; sometimes (chiefly town councils) one-third is elected every year. Party politics play practically no part in elections, except in the municipal boroughs, and even there they have by no means undisputed sway. The general level of quality in the town councils and urban districts is good, and the gradual appearance of a labour element in them has not tended to lower their quality; whilst in the county councils the maintenance of the influence of rank and social position is shown by the fact that their members are drawn chiefly from the classes of country gentlemen and professional men, who supply the bench of justices. It ought perhaps to be said that in the rural portions of England there are not separate elections for guardians and rural district councillors; the persons elected on the latter are *ipso facto*

poor law guardians for their areas, though the two bodies are absolutely distinct in working. In the rural parishes the parish councils are usually weak; they are unattractive because there is so little to do, or there is so little means available for doing what is permitted. The important points to observe about the councils are two:—

- (a) The "Committee System." The council as a whole decides policy and controls finance, but it leaves the working out of details and the management of routine administration to committees, subject to its approval. So each councillor has a share in deliberative work, and also in the task of actual administration. In many cases a council may delegate to a committee any or all of its powers in a particular matter, and in that case the committee may act as if it were the council; but this can never be done in the case of the raising of a loan or levying of a rate; the council cannot delegate its financial responsibility.
- (b) The council is the governing body, and is an assembly of unprofessional administrators. The professional officials (clerk, medical officer, &c.) are merely the servants of the council. They may exercise great influence, and may really determine policy, but they do this because of their experience, knowledge, and ability, and not because of any legal authority attaching to the office which they hold.
- (5) Coming now to the functions of local authorities, there are some preliminary remarks which must be made. The first is that in England a local authority can exercise only those powers which are specifically conferred upon it by law, either statute or common law. But whilst Parliament has thus on the one hand carefully avoided giving local authorities general powers to do whatsoever they please, it has on the other hand never attempted to limit their activities by hard and fast lines. It has escaped both these evils, of undue freedom and undue limitation, by granting them such powers as were thought necessary for all authorities of any particular class, and then allowing any individual authority (county, borough, or urban district council) to apply for special powers to be granted by means of a "Private Act"; and, further, it has also by "Adoptive Acts" authorised the use of various powers by any local authority wishing to have them, so long as that authority complies with certain conditions as to the "adoption." Thus, if we wished to make a catalogue of the powers of the City Council of Birmingham, we should have to search through—

(a) *Constituent Acts*.—The Municipal Corporations Act, 1882, and the Local Government Act, 1888 (for Birmingham is a county borough).

(b) *General Acts*.—Applying to all authorities of a par-

ticular class (*e.g.*, Public Health Act, 1875, and Education Act, 1902).

(c) *Adoptive Acts*—*e.g.*, Baths and Wash-houses Act, Housing of the Working Classes Acts, Public Libraries Acts, &c.

(d) *Local (or Private) Acts*—*e.g.*, Birmingham Corporation (Consolidation) Act, 1883.

The second point to be noticed is that during recent years there has been a pronounced movement away from what used to be a favourite device—namely, the system of "ad hoc" authorities, whereby an independent elected authority was set up for one particular service alone, and given power to levy a rate for that purpose. There were multitudes of these up to 1888; and then the Local Government Act of that year inaugurated a policy of consolidation which culminated in the abolition of the School Boards in 1902 and the transference of their powers to other authorities. The only universal "ad hoc" authorities now left are the boards of guardians: there are a few others scattered about the country, but none of them are directly elected. I have no time to discuss the merits of this policy; I can only say that it seems to me to be fundamentally right, and that the advantages of obtaining an occasional expert and undivided attention on the part of the members are more than counterbalanced by the disadvantages of the frequent elections, the small interest taken in authorities doing only one thing, and the divided financial responsibility which are among the consequences of the "ad hoc" system.

It is clearly impossible in this limited time to attempt to sketch, even in outline, the powers and duties of the various authorities. I trust that I may have an opportunity of doing that on another occasion. But I may point out again that there has been an extraordinarily rapid development of the functions of local authorities in the last century—a development which is now presenting us with some quite new problems. The best evidence of this increased activity is shown by the finances of the local authorities. The ordinary expenditure of English local authorities (not out of loans) was in 1884-5 44 million pounds, in 1894-5 59½ millions, and in 1902-3 93 millions. The debt was in 1893-4 224 millions, and in 1903-4 394 millions.

We may classify the functions of local authorities, aided or not by the central Government, somewhat as follows:—

- (1) *Protection of Life and Property*.—Essential services and historically the earliest. These include Police, Means of Transit (Highways and Bridges), and the Relief of the Poor.
- (2) *Quasi-essential*—*e.g.*, the promotion and protection of public health, and the provision of a minimum of education.

- (3) *Recreative*—e.g., Libraries, Art Galleries, Museums, Parks, Gardens, Recreation Grounds.
- (4) *"Trading"*—i.e., "Enterprises which necessitate the maintenance of a large and very special plant, managed by an expert staff, and are generally capable of being so conducted as to yield a financial profit."

This last group includes Gas Supply, Electric Light and Power, Tramways and Light Railways, and sometimes Water (not always, for geographical difficulties may make the supply so costly that it is impossible to charge a remunerative price for it). Most of these services tend by the very nature of the case to become monopolies, and towards them a local authority may adopt any one of three policies. It may leave them to private companies, and allow the companies to go their own way uncontrolled—that is, to occupy the same position towards the public as a private trader towards his customers. Or, secondly, it may impose special obligations and restrictions upon the companies; it may limit the profits or charges, enforce regulations as to the quality and quantity of the commodities supplied, and make any other conditions which it thinks proper and the law will allow. Or, thirdly, it may itself undertake to supply the services needed, either alone or in competition with private undertakings. There is one other policy, midway between the second and third, whereby the local authority owns the plant necessary for the service, but leaves the working of it to a private company, so that it runs no commercial risk itself. "This plan . . . has, however, rarely been very successful, and is generally being given up." (Ashley, *Local Government*, pp. 125-6.) The whole question of this municipal ownership is extremely difficult and controversial, and it cannot be discussed here; but there are two points which I would emphasise, and which should be borne in mind throughout the controversy:—

- (1) That municipal working normally starts from the opposite point to trading; it does not seek primarily a commercial profit.
- (2) That the issue is not between municipal ownership and unrestrained private monopolies, but between municipal ownership and controlled and conditioned private enterprise.
- (3) Lastly, a few words as to the relations between local authorities and the central departments. I have spoken of the delegation of work from the central to the local authorities, but it must be remembered that with us the local authorities are the delegates of the central *Government*, and not of the central *departments*, which would be something altogether different. The powers which the departments—Local Government Board, Home Office, Board of Trade, Board of Education—exercise in regard to local authorities are strictly confined within the

limits prescribed by Parliament. These powers differ greatly in kind, and range from the issue of rules and regulations which are absolutely binding upon all local authorities, or upon particular classes, to the mere making of advice and suggestions. The power is greatest in the case of the poor law, where the Local Government Board has extraordinary powers of minute direction and supervision; and in the financial control by the same board of all local authorities, with the partial exception of the town councils. In a few cases the central department can do something to secure an efficient administration of a particular service by the use of its power to give or withhold the Government grant—this applies to education, police, and a few public health matters—and it may always make representations to the local authorities in other cases. But in general all it can do is to see that the local authorities carry out the law somehow; and it can take strong action only if they actually neglect to obey the law. Even then the central departments in practice can only invoke the aid of the Courts of Justice; and the conflict is then between the recalcitrant authority and the judicial tribunal. This effectually prevents the departments becoming bureaucratic and arbitrary in their action; and a further (though in practice less effective) check is, of course, the presence of responsible heads of the departments in the House of Commons. There is a great need for the maintenance of a minimum standard of efficiency in the performance of all those essential or semi-essential services which are entrusted to the local authorities; and the fundamental problem is to devise forms of central control which shall be effective in securing that minimum without diminishing in any way the initiative and sense of responsibility of the local authorities.

At the conclusion of the paper a short discussion took place, in which Messrs. H. S. Lanham, Price, and the Chairman took part.

A hearty vote of thanks was accorded to the lecturer, on the proposition of Mr. F. S. Bowers, seconded by Mr. A. E. Veale, and the meeting closed with a vote of thanks to the Chairman, proposed by Mr. Ashley, and seconded by Mr. A. C. Anderson.

The Birmingham University and Higher Commercial Education.

Writing to *The Jeweller and Metalworker* on the subject of "Higher Commercial Education and what the Birmingham University is doing," Mr. Allen Edwards, F.C.A., says:—

The following is a list of some of the subjects in connection with commercial education, which deserve the very

best consideration on the part of the leaders of the jewellery and allied trades, as worthy of being included in the plan of education of young men joining the trades:—

- (1) Elementary and Advanced Bookkeeping.
- (2) Specialised Bookkeeping.
- (3) Manufacturing Costs.
- (4) Banking (Law and Practice) and Bills of Exchange.
- (5) Bankruptcy and Insolvency Law, and Causes of Failures.
- (6) The Sale of Goods Act, 1893 (including Appropriation).
- (7) The Law of Contract; Patent and Trade Mark Law.
- (8) Company and Partnership Law.
- (9) Insurance (Fire, Burglary, Transport, and Workmen's Compensation).
- (10) Carriage and Freight.
- (11) Rating.
- (12) Income-tax.
- (13) British, Foreign, and Colonial Tariffs; Foreign Currency and Exchange; and the Decimal System.
- (14) Political Economy (including Taxation, &c.).

Experience shows that the leaders of most of our great industries have some knowledge, more or less extensive, of nearly all these subjects. The small manufacturer may argue that the subjects would be useless for his particular trade, but it has been over and over again pointed out that it should be the ambition of the owners of and workers in small businesses to convert them into large ones.

The subjects of education may also include:—

- One or two Foreign Languages.
- Mathematics.
- Electricity.
- Chemistry.
- Metallurgy.
- Elementary Engineering.

These two lists leave out of consideration special subjects which may be said to peculiarly affect the jewellery trades, as Art and Design, Modelling, History of Ornament, Metal Amalgamation, Repoussé Work, Enamelling, Chasing, Engraving, Embossing, &c. All or most of these last-named subjects, happily, have for many years in Birmingham received special attention at the Vittoria Street Schools, which were established through the instrumentality of the Birmingham Jewellers' Association. As regards our first two classes of subjects, on first reading, the student might stand appalled at what he is called upon to undertake. A little consideration, however, will show that there is nothing very unreasonable in the curriculum suggested. If care has been taken with a boy's

education (the intention from the first being that he should embark in the trade), by the time he leaves school he should know one foreign language, and he should also have a fair knowledge of chemistry and electricity. Other subjects can be learned between the ages of 16 and 22, if reasonable encouragement and facilities are given.

Parents, guardians, and masters, and in fact all who are responsible for the well-being of young people embarking in the trades, should encourage them to take advantage in their younger days of the facilities afforded by the Birmingham University or other similar institutions. This will probably be found to necessitate that the boys should be allowed to have two or three half-days per week for the purpose, or somewhat more if it proved to be profitable to take several courses in the same year. There are many students in the Faculty of Commerce at the Birmingham University who, as in America, give the whole of their time (during the terms, which aggregate 30 weeks in the year) to the University work. This, however, the writer does not urge in reference to the jewellery trade, because he recognises that, if it is required to convert a boy into a practical man of business, he must, in many cases, begin early to obtain his practical knowledge and experience. Economics, Bookkeeping, Commercial Law, and other such like subjects, will not of themselves make a man a good man of business. What may be described as the "practical" and "academic" sides of the student's education should go hand-in-hand together, each being essential to the other. He should familiarise himself with the currencies and business methods of countries other than his own. He should study the reasons which make from time to time for fluctuations in the prices of metals and precious stones. He should be taught by practical experience and constant practice *the absolute necessity for patient, careful, and correct detail* in the records of the transactions of his business. He should know how to gauge almost to a farthing the cost of every article which he manufactures. He should be familiar with the law as it applies to his own business. His knowledge should be such that there should be no necessity for him, in every small difficulty which arises, to apply for professional assistance or advice, which will probably have to be paid for, and which, perhaps, may not always be worth following.

It may be said that if the student conscientiously follows out a considerable portion of the course of training which is now suggested, it must not only render him infinitely more capable of dealing with his own affairs, but also with public affairs, if he should ever decide to go into public life. It will also naturally expand his intellect, and make him a more useful and acceptable member of cultured society.

Every step that he advances in his commercial education will open up and develop new ideas, hitherto impossible to him, and the result will probably be that where his mind formerly *ran on tens* it will be educated to *run upon hundreds and thousands*.

The following very able account of the "purpose" of the Faculty of Commerce of the Birmingham University should be read with interest. It is somewhat lengthy, but it is so practical and so much to the point that the writer is unwilling to omit any single word of it.

"The Faculty of Commerce, created in the University of Birmingham, began its work upon October 1 1902. That work is the provision of a course of training suitable for men who look forward to business careers. Its object is the education, not of the rank and file, but of the officers of the industrial and commercial army: of those who, as principals, directors, managers, secretaries, heads of departments, &c., will ultimately guide the business activity of the country.

"The establishment of such a Faculty, the first in England, was the outcome of motives similar to those which are leading to the creation of like institutions in the two other great commercial countries of our time—the United States and Germany. It was believed that a training could be devised which, while strengthening the powers of judgment, widening the sympathies and stimulating the imagination—the ends of all really liberal education—would yet be of real value as a preparation for the practical duties of later life. It was felt that if the Universities are to maintain their position in the modern world they must have regard to the dominant interests of that world; that they must not be content simply to prepare men for what it has been customary to call the 'learned professions.' Some Universities have, indeed, already taken steps towards meeting the new needs of the time by the establishment of schools of engineering; but hitherto the much wider need of *commercial* education—an education of benefit to those who will have to assume responsibility, to take the initiative, and to control men in the ordinary conduct of trade or manufacture—has been well-nigh disregarded. And yet the time is ripe for an effort in this direction. The world has now had a long enough experience of modern means of production and modern means of communication for the accumulation of a large fund of experience: and the man who proposes to engage in a business career can now be put in possession, not only of systematic information as to contemporary conditions, but also of a body of principles of policy deduced from current practice. The place of the academic teacher is not to elaborate some *a priori* theory, but to gather, arrange, and present the lessons of practical experience. He has to explain the inter-

"relation of those conclusions which, in actual affairs, are arrived at singly and in isolation one from another; and to show that they are not merely accidental happenings, but the natural results of the situation.

"No system of education, however well designed, can, of course, take the place either of natural ability or of experience. But this is equally true of medical training. No medical school discipline can create a great physician or surgeon unless the student has exceptional natural qualities; and yet this is not regarded as a fatal objection to medical schools. It is felt that a systematic medical education will, in the first place, give even exceptional ability a better opportunity to make itself manifest; and, in the second place, raise the general level of efficiency among the ordinary members of the profession. The parallel is evidently not a complete one; for, under modern competitive conditions, there is far more room in business for new combinations, and far more demand for enterprise and for power of organisation and administration than in the career of the medical man. Yet the analogy is valuable up to a certain point. A systematic business training would certainly raise the general level of efficiency in the ordinary management of commercial affairs; and, though it cannot create geniuses, it may direct into the paths of commercial life a great deal of ability of a high quality which at present goes to waste.

"Education, as before remarked, cannot take the place of experience. The attempt in certain Continental institutions to reproduce the course of counting-house procedure may, perhaps, be a useful preparation for the lower grades of service; but for the higher nothing can dispense with the actual bearing of responsibility and incurring of risks. No curriculum can possibly be devised which will enable the commercial graduate to step at once into positions of leadership and authority; but, nevertheless, much can be done to enable the young man of business to profit by his early experience more rapidly and less painfully than is commonly the case.

"It is sometimes objected that 'business can only be learnt in business,' and that 'college life unfits a man for business.' As to the latter objection, all that need be said in this place is that the writer of this paper by no means maintains the desirability of any and every sort of college life for every future business man. He is concerned only to maintain the desirability, for most business men of the higher grades, of a training especially adapted to their needs, and carried on in an active business atmosphere, such as that of Birmingham or other great provincial cities. Whatever disadvantages a great industrial city may present as the home of a university, it has this enormous advantage from the present point of view, that

"a student therein will be far less likely to lose touch of the future needs of active life. As to the former objection, he is bound to recognise that only actual trial can determine how far men can be definitely prepared in college for commercial life. But there are several considerations which make it worth while to try the experiment.

"(1) It is a common complaint that a great deal of English business is marked by unintelligent rule-of-thumb routine. This would seem to be the natural result of putting boys into the office at seventeen, and never giving them a chance to widen their mental horizon.

"(2) During the last two decades there has been a marked acceleration of the speed of industrial and commercial change. The application of science to machinery involves more frequent changes in manufacturing processes. The extension of means of communication means a widening of the area of competition and a frequent transference of markets. All this calls more and more for mental flexibility, alertness, and adaptability on the part of the traders. Men need, more than they did fifty years ago, to be able to think round and about their business, to lift themselves above its daily details, and to judge of it as a whole. But such qualities are certainly not likely to be stimulated by early absorption in the subordinate routine of a particular occupation. There is some chance of promoting them by courses of instruction which shall accustom the future trader to survey a wide range of industrial undertakings, to watch the development of the world's great markets, and to estimate the resources and capabilities of other nations.

"(3) Elderly merchants and manufacturers are often heard to lament that the rising generation does not take the same keen interest in business as in their young days. On inquiry it usually appears that the young days to which they refer were those in which they were themselves creating their businesses, and that the rising generation means their sons and grandsons to whom they hand over businesses already established. We may be sure that, for a long time to come, many of the leaders of industry will be self-made men, and that they will be keen enough about their work. But much of the trade of the country must be carried on by men who inherit their positions; and it is asking too much of human nature to expect such men to feel the same zest in their occupation as their fathers who made their own way. But if nothing can come up to the stern joy of original creation, its place can, in some measure, be filled by intellectual interest in the occupation. This is what a commercial training can give, such as the University of Birmingham proposes to provide.

"(4) Unfortunately, as things are at present in England, the better the educational opportunities have been the

"greater is often the distaste for business. A correspondent, who has ample means of judging, writes thus:—'Americans succeed because of knowledge, a good start, no looking back, and no regrets. They take to business like a duck to water. English public-school men don't—they go into business because they are shoved in. They despise it; and they vow that when they have made enough money they will clear out as soon as may be.' This is an extreme way of putting it, but it expresses a widespread sentiment; and yet manufacture and trade are even more fundamental social functions than—let us say—the lawyer's calling; upon them depends the prosperity of the masses of the people, and they are not a whit more selfish than some of the professions.' If they are despised it is not because they are money-making, but because they have not been made intellectually interesting. Yet they are as capable of being made intellectually interesting as most of the professions.' To be brought to realise the larger issues involved in business decisions; to understand the place a man's own undertaking occupies in an industry as a whole all over the world, and the relation of that industry to others; to be accustomed to weigh conflicting considerations for and against a particular policy; to get into the habit of following the larger movements of manufacturing progress and international trade, and to learn how to get oneself at the best accessible information—in foreign sources as well as English—surely this, if anything, will prevent business from being dull.

"(5) Another indication of the defects of the system—or rather the want of system—that has hitherto prevailed in this country is to be found in the common complaint on the part of the heads of great industrial enterprises that they are unable to obtain for their service anything like a sufficient supply of men capable of assisting them in the higher work of their business. Efficient executive officers can, perhaps, be promoted from the ranks; but men to whom may be delegated a share of responsibility in management can seldom be found among those who have been engaged all their lives in merely carrying out orders. It is because their previous training has not accustomed them to take a large view of the policy of a business as a whole, to reflect on the relation of its several parts, and to consider the movements of markets and the fluctuations of prices as the results of general as well as special causes. This is where a survey of business problems such as a student should obtain in a course of higher commercial education ought to be of value, not so much as furnishing him with direct precedents as in fostering a certain habit of mind—assuming, of course, that he possesses a mind that can acquire the habit.

"(6) And, finally, it may be observed that a vague sense that something is desirable in the nature of special train-

ing is already widely diffused among business men, and shows itself in the attempts men of high commercial position often make to enable their own sons to 'learn business.' Apprenticeship to a merchant still survives in some places; but the apprentice can only acquaint himself thereby with the details of one particular occupation; it is very seldom that the principal cares to talk over with him the motives which determine his action. Some parents pay a premium to an accountant to allow their sons to have 'the run of the office' for six months or a year. This may be a most valuable experience in some cases; but in most it must be very much of a chance how much the young man really learns; and it can never be so beneficial as a well-planned course of instruction over the whole field of accounting, such as may be devised in a Faculty of Commerce worthy of the name. Some, again, send their sons for a period of foreign travel. This again may be profitable; but it would be much more beneficial if the traveller took with him some preliminary knowledge of the industrial resources and organisation and recent history of the country he visits. And, finally, some who make large use of machinery put their sons through part of an engineering course—an excellent policy, again, if the future work of their lives is to lie entirely on the technical side of the business, but positively dangerous (when unbalanced by training in other directions) if they are to take in charge the commercial side of business. For it is a matter of common observation that the technical expert often cares more for the mechanical perfection of the process than for its commercial return. And if he thinks of the latter at all he has usually little skill in estimating the relative importance of the commercial and administrative factors involved.

And the result is that many a business man will tell you that, in spite of the various plans adopted by his father in order to enable him to 'gain experience,' the first few years after he left school were practically wasted."

As regards the degree of Bachelor of Commerce, the fullest information as to the course of study and other particulars requisite will be cheerfully afforded to all applicants at the University.

As regards the general Commercial Curriculum, Professor Ashley writes as follows:—

The courses of study are designed to serve three purposes:—(1) To give general culture; (2) to give a general knowledge and understanding of commercial affairs; and (3) to supply the knowledge of applied science or technology which is likely to be useful in the particular career which an individual student is looking forward to. It is obvious that these three purposes cannot be sharply distinguished. Moreover, while retaining certain common elements in every man's group of studies we

"endeavour to adapt them, as far as possible, to his previous training and to his future career; and to this end we allow a wide range of choice."

Professor Ashley further writes:—

"We do not profess to be able to create the business genius. No system of education can do that. What we do expect to do is to enable the ordinary intelligent, industrious young man to be a better business man than he otherwise would have been, and to take interest in his work. But we hope to do this, not so much by conveying definite knowledge or expertness in a particular direction—although, of course, we do a great deal in both these regards—as by cultivating the judgment, opening the mind, and making the whole character more alert and efficient; and we try to do this in a way which will, at the same time, make the man a better citizen and enable him to fill his life outside his business hours with pleasant and elevating occupations."

And further—

"The problem is not primarily to divert from Oxford and Cambridge those who now resort thither, not even to turn the attention of those who resort thither to new subjects, but to induce that vastly larger number of young men to submit to a definite and serious training who at present are 'pitchforked' into the workshop or office at seventeen and get no systematic training at all."

And further—

"The American University is a decidedly practical thing. I do not think you would find a well-to-do man in Eastern America, or even a large shopkeeper, who did not have a son or nephew at college."

Syllabus of Courses at the University.

The following are the special courses of study at present laid down by the Faculty of Commerce at the University.

(1) *British Empire (with special attention to the self-governing Colonies), United States, Germany, France, Russia, and South America.*—The courses under this head give a general review of the principal industries of the countries named.

(2) *Economic Analysis.*—This is a course reviewing such subjects as the General Character of Economic Development, Production of Wealth, Distribution, Labour, Capital, Supply and Demand, Crises and Cycles in Trade, Credit, Money, &c., and generally such subjects as were formerly considered as appertaining to Political Economy, and "Wealth of Nations."

(3) *Business Policy*, including Recent Methods of Industrial Finance, Fluctuations of Trade, Methods of Attracting Demand, Combination, and Amalgamation of Businesses, Location and Laying-out of Works, Treatment of Labour, Questions of Manufacturing Policy, &c.

(4) *Accounting.*—Three courses by Professor Dicksee, F.C.A., one of the best known of our London Chartered

Accountants, whose books upon accounts have obtained a world-wide reputation. The courses include such subjects as Single and Double Entry, Balance Sheets, Trading and Profit and Loss Accounts, Capital, Fixed and Floating Assets, Interest, Sinking Funds, Income-tax, Executorship Accounts, Depreciation, Partnership Accounts, Card and Loose Leaf Ledger Systems, Reserve Funds, Goodwill, Cash Accounts, &c.

(5) *Commercial Law*.—Including Bankruptcy, Company Winding-up, Reconstructions, &c.

(6) *Banking and Technique of Trade*.—Including Foreign Exchange, International Trade, Stock Exchange, Insurance, Banking Law and Practice, &c.

(7) *Economics of Transport and Communication*.—Railways, Canals, Steamships, Railway Rates, Classification of Goods, &c.

(8) *Public Finance*.—Including Public Expenditure, Public Revenue, State Domain, Taxation, Income-tax, Property Tax, Public Debt, Budgets, Municipal Taxation, &c.

(9) *Methods of Statistics*.

The foregoing are the *special subjects* associated with the Faculty of Commerce. There are, of course, other subjects, as Modern Languages, History, Geography, Logic, Mathematics, Physics, Chemistry, Geology, Engineering, Metallurgy, and Mining, some of which are essential to taking the degree of Bachelor of Commerce (a wide range of choice being allowed), but which the writer does not propose to treat of in this article.

Engineering students who take a four years' course at the University have, during their last year, to take a course of Accounting under Professor Dicksee. This is one admission of the growing importance of the subject of present-day commercial education.

Professors and Lecturers.

The names of these are as follows, viz.:—

Professor W. J. Ashley, M.A., M.Com. (late Professor in Harvard University, U.S.A., and some time Fellow and Lecturer of Lincoln College, Oxford, and Professor of Political Economy in the University of Toronto).

Mr. A. W. Kirkaldy, M.A., B.Litt. (Oxford and Paris; some time member of the firm of John Kirkaldy & Sons).

Professor Lawrence R. Dicksee, F.C.A., M.Com. (of the firm of Sellars, Dicksee & Co., Chartered Accountants).

Mr. Frank Tillyard, M.A. (Oxon), Barrister-at-Law.

The above list of names does not include the names of professors and lecturers upon Languages, Science, Mathematics, and other subjects included in the "Commerce" Syllabus.

It should be remembered that Birmingham was the first

University to establish a Faculty of Commerce, and that it only commenced its work in this direction in October 1902. To a large extent it has had to feel its way, and the curriculum cannot by any means be said at present to be permanently settled. Just as the Sabbath was made for man and not man for the Sabbath, so it may be said that the Faculty of Commerce exists for the student and not the student for the Faculty of Commerce. Therefore the University will be pleased, as occasion demands, to provide for the teaching of special subjects, for which it can be proved there is a demand. For example, if a class of ten or fifteen jewellery students can be got together, the University would certainly provide special facilities for the training suitable for their particular requirements.

The only other English University which at present has established a Faculty of Commerce as at Birmingham is Manchester. The Universities of Liverpool, Leeds, and Sheffield have, however, professorships and lectureships in Economics; give courses which are intended to serve the purpose of commercial education, and give certificates or diplomas of one kind or another. The curricula at Birmingham and Manchester have a great deal in common. But there are important differences. At Birmingham more stress is laid on accounting, and it is easier under the Birmingham regulations to combine technological study (as, for instance, in metallurgy) with more strictly commercial studies. At the other institutions—Liverpool, Leeds, and Sheffield—the whole movement is in an earlier stage, and the organisation is much less complete. But no doubt all these institutions would provide, if asked to do so, a certain amount of commercial training suitable for young jewellers. The whole matter, however, is at present in a somewhat complicated and incomplete condition, and time and experience can only decide what is the best for all. It may be safely said, however, that Birmingham is more advanced than any other of the Universities in the cause. At London there are large facilities for commercial education in connection with the London School of Economics and Political Science, which is a part of the University of London. At the Universities of Glasgow and Edinburgh there are departments of Economics, and lectures are given specially for the benefit of future business men.

The object of the writer in presenting this article is not so much to advise the jewellery student to embark upon this or that special system of instruction, but to introduce the subject of commercial education generally, and to explain what opportunities of study and training are open to him if he seeks to take advantage of them. *Also to explain that further opportunities will be afforded by the University authorities, if it can be shown that there is a demand for them.* The advantages of regular and systematic education are much better appreciated in Germany, Sweden,

Japan, and America than they are here; and unless this country recognises that the methods of forty or fifty years ago are not sufficient for the requirements of to-day, then, on the principle that the race is to the swift, this country may wake up some fine morning and find that much of its former industrial, commercial, and financial glory has departed.

Stockbroking in India.—I.

Calcutta.—The Native Broker.

By GEORGE CECIL.

AMONGST India's many results of modern civilisation, the native broker, with which Calcutta is so liberally supplied, is not the least curious and interesting—as a study. By rights, the Eurasian and Armenian representatives of the broking fraternity should be included under the heading of “native broker”; but since they differ somewhat in costume and diet—though but little in mind, ideas, and colour from the unadulterated black man—it is, perhaps, advisable to exclude them from this article. In fact, such a course can but please them, since they love to be considered in the light of white men; on a future occasion they shall be treated of, and in a manner which will not fail to do them justice.

Although Calcutta literally teems with native brokers, known as *Baboo*s, they all appear to make a living. This, however, can easily be understood, when it is remembered that the Aryan man of rupees exists comfortably on from twelve to fifteen shillings a month. His food consists of an unsavoury compound in which rice and (apparently) decayed cabbages form the principal ingredients; and a pair of white cotton trousers, with a coat to match, serve him as clothes, to which must be added an inexpensive pair of shoes, an under-vest, and collar. Should the weather be exceptionally warm—from the native point of view—the native broker will discard his coat and pantaloons. But it must not be imagined from this statement that he walks abroad as Adam did; no, he attires himself in a shirt and *dhoti*—a species of kilt, white stockings completing this cool costume. Ladies' suspenders also are to be seen adorning his extremities, and should he be so fortunate as to have received a large buying order, he will invest in a pair of richly designed silk elastic garters with an appropriate motto engraved thereon. In the event of the weather being cold, the native broker's garments will be made of thick cloth of an exceedingly cheap variety, and his shoulders will be shawled. Like the Bluecoat boys, his head is uncovered; consequently he is saved

the expense of a hat. Nor does house-rent trouble him greatly, since a few square feet in a corner will contain his roughly-fashioned couch; and as to his ablutions, the neighbouring river answers his purpose. From the foregoing it will be seen that the *Baboo* broker's personal expenditure may be kept within most reasonable limits. But inexpensive as he finds life to be, his *confrère* the *Mahawari*, also a native broker, succeeds in living upon half the sum. Shirts, collars, shoes, and suspenders are not included in his scheme of clothing: a wisp of cloth around his waist, a loose garment enveloping the upper portion of his body, and the *Mahawari* is furnished with a complete suit. It may be added that he wears a hat, in the shape of a turban of gaily coloured linen, and that, in common with the *Baboo* broker, he feeds on evil-smelling Oriental food.

The native broker's work differs somewhat from that of the London fraternity, inasmuch as he does not possess an office wherein to deal with the orders of his town and country *clientèle*: he spends the day in paying calls at the offices and residences of his clients. On being ushered into the presence of, say, Calcutta's leading wine merchant, he will thus address his patron:—

“Good marning, sir; you got business for me to-day?”

“H'm, well, I want to sell my ——— Hotel shares.”

“They very bad price now, sar. Some saying managing director dam rascal, no dividend for shareholders. Market price now being fifty rupees.”

“But they were at seventy last month.”

“Yes, sar, they being seventy last month, because one director he buy three hundred shares. He buying small lot often first to send up price.”

The brokerage charged by the Aryan broker is nominally four annas (fourpence) a share, though virtually it may be anything, for the dusky manipulator of figures has been known to accept a buying order at one anna brokerage and to obtain as much as eight annas a share. As a rule, however, he is paid at the regulation rate of four annas. Though immersed in business, he seldom does a flutter on his own account, being of an essentially timid nature; but it occasionally happens that he and his friend rake in a haul. Should the *Baboo* or *Mahawari* broker's star thus be in the ascendant he will treat himself to an exceedingly gaudy gold watch-chain, or a pair of pearl ear-rings. And his soul rejoices greatly in the possession of any finery whatsoever.

American Insurance Companies and the Income-tax.

(From *The Times*.)

It may interest our readers to trace the exact steps by which British and foreign insurance companies have been placed on the same basis with regard to deduction of income-tax. We append the provisions which have from time to time been enacted by Parliament concerning this question:—

Section 54, Income-tax Act, 1853:—

"Any person who shall have made insurance on his life . . . or shall have contracted for any deferred annuity on his own life . . . in or with any insurance company which shall become registered under any Act to be passed in the present Session of Parliament for that purpose, and which shall comply with the requirements of such Act . . . shall be entitled to deduct the amount of the annual premium paid by him for such insurance or contracted for . . . from any profits or gains in respect of which he shall be liable to be assessed under either of the Schedules D or E of this Act, or to have any assessment which may be made upon him under either of the said schedules reduced or abated by the deduction of the amount of the said annual premium from the amount of the profits or gains on which such assessment has been made."

Section 9, Finance Act, 1904:—

"Section 54 of the Income-tax Act, 1853 (under which relief is granted in respect of premiums on life insurances or contracts for deferred annuities), shall apply in relation to life insurances or contracts for deferred annuities effected in or with any insurance company legally established in any British possession as it applies in relation to life insurances or contracts in or with the insurance companies mentioned in that section."

Section 11, Revenue Act, 1906:—

"The provisions of Section 9 of the Finance Act, 1904, shall apply in relation to life insurances or contracts for deferred annuities effected in or with any insurance company lawfully carrying on business in Great Britain or Ireland, and accordingly such section shall be read and construed as though the words 'or lawfully carrying on business in Great Britain or Ireland' were inserted therein at the end of the fifth line thereof after the words 'British possession.'"

It will be seen that the privilege originally arose, no doubt accidentally, from the fact that deduction might only be made by policy-holders in companies registered

under an Act of Parliament, which would, of course, be necessarily British. By the Finance Act of 1904 it was definitely extended to Colonial companies, and it was even contended that the words "legally established in any British possession" would include the American companies doing business here. Legal authority differed, however, and the matter was finally placed beyond doubt by a section introduced, on the motion of Mr. Berridge, M.P., in the Revenue Act of 1906. This was done at about 2 o'clock one morning, and consequently was not reported; and hence the discovery that this, one of the last remnants of protection in our fiscal system, had been done away with was a surprise to many prominent officials of the British insurance companies. It need hardly be said, however, that they do not complain of its abolition, since their companies are strong enough to face competition from America, or anywhere else, without protective support. But the manner in which the privilege first crept in unnoticed and was finally abolished unobserved is an interesting example of the methods of British law-making.

Insurance.

Look to your Policies.

GREAT attention has been attracted by the San Francisco earthquake to the extent of the responsibility of insurance companies in the case of damage by fire and otherwise, and their opportunities for evading it. An article on this point will therefore be of widespread interest, for the most erroneous ideas exist as to the actual position of the insurer with the company after the occurrence of a fire.

Now the first matter to be considered is, What is a fire policy? It is a contract between parties (the insurance company and the insured), or, as it is called, "a contract of indemnity," whereby the former, in consideration of an annual sum, called a premium, covenants to pay to the latter in the event of damage or destruction through fire the value of the goods, or premises, so damaged, or to reinstate or replace the same in the condition in which they were on the happening of the fire.

It is safe to say that nineteen out of twenty policy-holders, on receiving their policies, further than glancing at the amounts placed against the different items, neglect to read them, and so are ignorant of the, in many cases, drastic conditions set forth on the back, and even if they did read them would not be greatly enlightened, bristling as they do with ambiguous and technical phrases, the

meaning of which an ordinary layman would have some difficulty in grasping.

It is only after a fire that they become fully aware of the nature of the contract they have entered into. A man who insures his goods and effects for, say £500, and suffers a loss of £250, naturally and rightly would expect to be paid that amount by the office which has, for years perhaps, enjoyed his confidence and been in receipt of his premiums. He will probably find that he has reckoned without the office assessor.

The Claim.

When a fire occurs in London or the vicinity both the Fire Brigade and the Salvage Corps attend, the latter to protect the goods or property in the interests of the insurance companies, by which the corps is maintained, and to minimise the damage by fire, dirt, smoke, and water as much as possible.

If the sufferer is insured in one of the tariff offices, a salvage man is left in charge until the settlement of the claim, or for such a period as the office surveyor may deem expedient. For this man's time there is no charge whatever to the insured.

The insured must, according to one of the conditions of his policy, give immediate notice of the fire to the office concerned. The Salvage Corps also notifies the office. The office surveyor is then instructed to inspect and report, which he does by and after a personal visit to the premises, making, roughly and approximately it must be, an estimate of the damage as preliminary information to his employers. He then hands a claim form to the insured, telling him to make out his claim and forward same to his (the surveyor's) office without delay.

Now, in the case of a shopkeeper wholly "burnt out," to use the brigade term, this is often a very difficult matter, especially if his books have also been destroyed, as it is impossible from memory to detail with any degree of accuracy the items on the various shelves or in the drawers. Where the Stock Book has been saved it is somewhat easier, but even then many items are sure to be overlooked or forgotten.

Then it must be remembered that cost price, not the selling price, only can be charged, the insured not being permitted to make a profit by the fire. If strict proof is required the office can, and often does, demand the production of invoices and vouchers, and, if these are burnt, compel the insured to obtain duplicates, and also to produce his banker's Pass Book for their inspection. All this entails much trouble and expense, and is very irritating to one who has taken pains to make out a fair and honest claim.

In most offices it is a condition that the claim must be made and delivered within fifteen days, with a stipulation that unless this is done nothing shall be payable under

the policy; but if by reason of the magnitude of the damage this cannot be done in the prescribed time, the office, on request, will generally grant a reasonable extension.

The Arbitration Clause.

The claim, then, having been made in due form the office surveyor will again attend the premises for the purpose of checking it, in order to arrive at an adjustment and settlement. This very often is a matter of some difficulty, in consequence, perhaps, of a difference of opinion as to values, or for some reason not at all apparent to the insured, who has been at pains to make an honest claim, which, however, the surveyor is not at all disposed to recognise, and the insured, certain of the justness of his demand, is equally determined not to forego. It is now that he feels acutely the terrible dilemma in which he is placed. In the event of the parties being unable to arrive at an equitable settlement, there is only one course open to him by the conditions, and that is that the matter shall be referred to arbitration, which is a condition of nearly all the offices. He can seek no redress in the public Courts, and the arbitration proceedings being conducted in private, no report appears in the newspapers, so that, if the office is to blame, its doings never see the light of day, and the general public know nothing of the merits of the case. Could anything more iniquitous be imagined? It places the insured almost entirely at the mercy of the office, for unless he is a very well-to-do man he would be obliged to accept any sum the office, on its surveyor's recommendation, might think proper to offer, or engage in arbitration, which is generally very protracted and always costly. Not many could afford the time, trouble, and expense necessary to combat an influential company, for whilst the case is pending their businesses would be at a standstill and financial ruin result. Policy-holders should agitate vigorously against such a clause, and demand its deletion from all policies.

The Average Clause.

This clause is often inserted in policies as an extra condition, and my experience is that it is very little understood. It is used sometimes with the consent of the proposer, but very often he knows nothing of it until he receives his policy with the words, written on or attached thereto by a gummed label, "This policy is subject to average"—the exact meaning of which he does not quite understand and probably does not take the trouble to ascertain. All insurance companies desire that policies should be for as large an amount as possible, for no matter what the amount of the insurance may be they will take care not to pay out more than what they, or their surveyors, consider an equivalent for the damage or destruction actually done.

Some people insure for an amount that would only

partially cover their loss in the event of being totally "burnt out," arguing that the chances are they may never have a fire, and even if they were so unfortunate it would most probably be only a partial loss, so they insure for half value, in order to save a little extra premium, and risk the other half. They fondly imagine that they would be certain of receiving at least half the value of their goods if all were destroyed; but this is not so, for where the average clause is in force a man becomes his own insurer equally with the insurance company, so that if he was insured for £1,000, and the value of his goods was £2,000, he is held to take the risk in equal shares with the office, which in that case would not be liable for more than £500. This serves to show that it is always better to insure to the full value and dispense with the average clause.

(*Lloyd's Weekly News.*)

Textile Manufacturing Costs.

WE reproduce the following, which was referred to in our Weekly Note, "By-products," of the 25th ult., from *The Journal of Accountancy*, N.Y.:—

Perhaps the most interesting feature of textile mill accounting is the determining of the manufacturing cost. Many mill men take an inventory quarterly, and, after striking a Balance Sheet, work out their costs per pound, with the resultant surplus or deficit, and file the averages in comparative form. This makes interesting history, and when comparisons are made for the same period in different years, points are brought out which might not otherwise be developed. After all, the most intelligent criticism of results is reached by comparison.

Some mill managers, particularly in the cotton mills, selling white goods, differ in their ideas regarding what enters into strictly manufacturing cost. We use the term "manufacturing cost" as covering prime cost of raw material, productive labour, supplies, and an apportionment for depreciation. To prove with the result of a Balance Sheet, the inventory at the first of the year of partly finished (goods in process) and finished goods, should be added to this cost, and the inventory at the last of the year deducted. The net weight of the goods manufactured divided into this amount is the manufacturing cost per pound.

The waste inventories and receipts from sales of waste would reduce the expense, but, strictly speaking, should not be considered at this point, waste being an unescapable evil. That it should not be considered is shown by the general custom of inventorying the goods in process at the cost of manufacture to the various stages of completion.

The more rigidly we adhere to this idea, the safer are we in our estimated results, compared with actual realisation. Our objective is not to manufacture waste, but cloth.

It takes 1,000,000 pounds of raw material to produce 875,000 pounds of cloth, if our waste percentage is 12½ per cent.; therefore our manufacturing cost is the price paid for the 1,000,000 pounds, plus the other above described item of cost. It is, of course, understood that the sum realised from sales of waste operates to swell the surplus.

After a thorough scrutiny of the manufacturing Cost Sheet, we come to the analysis of the difference between the weight of the cotton opened and the weight of the cloth produced. The waste sold or reworked accounts for itself. The invisible waste is, weight for weight, frequently the most costly.

Accompanying the Daily Production Report, and forming part of it, should be arranged in parallel columns the standard weight and the actual weight as the goods come off the looms. There is no real profit to anyone in having the goods run heavy, as they are sold on a standard weight. Even the consumer wants a uniform weight. Here is where some of our hitherto invisible waste may be found. Conversely, every precaution should be made to keep the goods from running light. (Manufacturers are not grafters—not necessarily so, anyhow.)

Thus, after verifying our calculation, the real manufacturing cost is established, the manufacturer has entered into a group of costs over which he has more control. Selling Expenses, Salaries, Office Expenses, Insurance, &c., lie more within his grasp, being more elastic than the first group.

In the logical arrangement of general costs, after manufacturing cost comes the cost of sales. Separately viewed, these are Commissions, Trade Discounts, Allowances, Freight and Drayage, and any other specific charge essentially a selling expense. Comparisons with other, say quarterly, periods are particularly useful here, because, while Commissions and Discounts are generally a fixed percentage, the Allowances, Delivery Costs, &c., are variable quantities and need the closest scrutiny.

After establishing our cost of manufacture, and consolidating it with the cost of sales, we "sit up and take notice" of the margin left after taking this total from the gross sales. We now have the profit on sales, which should be large enough to cover all other charges, expenses, deductions from income, and leave an amount for dividends.

We are getting more interested as we now set up the general expense items of Salaries, Office Expenses, Insurance, and the like. The marshalling of all these items, properly grouped, sometimes seems like a grim army with

banners, in companies and regiments, coming to devour our frail and puny surplus, eked out of a lean year.

The receipts and rents from tenants' cottages, and other extra receipts of like nature, are set up as other income, and are added to profit on sales, from which sum we deduct the cost of General Expenses, leaving the total income.

From the total income we have, as a *contra*, the fixed charges, consisting of Taxes and Interests. After this deduction the balance, if any there be, is the net income.

By reaching the final result in this manner, the groupings stand out clearly, and fit into the mind more readily for comparative purposes. The headings can be easily remembered, arranged in a tabulated form, and will prove a valuable reference in the office of any mill.

Atlanta, Ga.

JOEL HUNTER.

Personal.

MR. ALFRED LASS, Chartered Accountant, announces that he has removed from Sandown Lodge, 352 Upper Richmond Road, Putney, to "Rapsley," Chesswood Road, Worthing.

MESSRS. I. B. REID & R. GAIR, Incorporated Accountants, announce that the partnership hitherto existing between them at Cathedral Buildings, Newcastle-on-Tyne, has been dissolved. Mr. I. B. REID will carry on business in his own name at the above address, and Mr. ROBERT GAIR at 18 Grainger Street, Newcastle-on-Tyne.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, August 31st, was 135, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 76; Deeds of Arrangement registered, 59. The respective numbers in the corresponding week of last year were: Bankruptcies, 80; Deeds of Arrangement, 69—total, 149; being a decrease of 14. The total number of commercial failures recorded during the 35 weeks of the present year is 5,646; the total number recorded in the corresponding 35 weeks of last year was 6,033, showing a decrease of 387.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, August 31st, was 121. The number in the corresponding week of last year was 122, showing a decrease of 1. The total number filed during the 35 weeks of the present year is 5,156; the total number filed in the corresponding 35 weeks of last year was 5,651, showing a decrease of 495.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, August 31st, amounted to £1,302,231, by way of addition to £2,119,259, previously issued by the same companies. The amount registered in the corresponding week of last year was £1,970,852, showing a decrease of £668,621. The total amount registered during the 35 weeks of the present year was £58,569,905 (in addition to the issues in previous years by the same companies), as compared with £55,415,320 for the corresponding 35 weeks in 1905, showing an increase of £3,154,585.

The Profession in Scotland.

Sheriff Court of Lanarkshire.

In James Arnott & Company's Sequestration, Dredge & McCombie, London v. John Forrest, C.A., Glasgow.

Bankruptcy—Sequestration—Trustee's Deliverance Rejecting Claim of Creditor—Bankrupts' Business Books as Evidence of Loan.

Held, that books kept by the bankrupts, the accuracy of which are not challenged, are sufficient evidence on which to claim a ranking in a sequestration.

The following interlocutor by the Sheriff-Substitute (Balfour) fully explains the circumstances.—

Glasgow, 30th August 1906. Having heard parties procurators, and considered the cause, finds that the appellants had prior to March 1904 sundry transactions with James Arnott & Company, warehousemen, in Glasgow; finds that at that time (March 1904) James Arnott & Company got into financial difficulties, and on 3rd March 1904 James Arnott, the sole partner of James Arnott & Company, wrote to the appellants that they (James Arnott & Company) would require an advance to enable them to meet some bills which were then due, and on the following day (4th March) they telegraphed to the appellants to pay in the sum of £80 on the London and County Banking Company, Lim., in favour of James Arnott & Company or bearer, and they cashed the same at the branch of the said bank in London, and paid in the said sum to the credit of James Arnott & Company at the British Linen Company Bank, Threadneedle Street, London. Finds that the said sum of £80 was advanced by the appellants to James Arnott & Company as a temporary loan to assist them out of their difficulties, and in particular it was advanced to help James Arnott & Company to pay a bill which they were owing to a firm called Becker & Son for £142 17s. 1d. Finds that the £80 was so applied by James Arnott & Company, and it was not a payment to account

of goods supplied by the appellants to them, but it was a temporary loan for the purpose already stated. Finds that James Arnott & Company did not give the appellants any receipt for the money and no document of debts exists for the £80. Finds, however, that the books of James Arnott & Company contain entries crediting the appellants with the said £80 conform to the excerpts Nos. 4/5 of process. Finds in particular that the Private Ledger of James Arnott & Company instructs that the sum of £80 was received from the appellants on 4th March 1904, and the same entry occurs in the Private Journal of James Arnott & Company, and these entries instruct that the £80 had been passed into the bank for James Arnott & Company, and James Arnott & Company were credited with that amount. Finds further that the Bill Book of James Arnott & Company instructs that a bill was due to Becker & Sons on 4th March 1904, and the £80 was applied in so far paying that bill. Finds under these circumstances that although there is no document of debt to instruct the loan of £80 the books of James Arnott & Company prove that they received the money from the appellants, and that the appellants were credited with the amount as a loan by them to the bankrupts. Therefore recalls the deliverance appealed against. Ordains the respondent to rank the appellants as creditors on the bankrupts' sequestrated estates in terms of their claim to pay them the dividend with the bank interest due thereon. And finds neither party entitled to expenses.

(Signed) D. D. BALFOUR.

Note—This is a peculiar case, and it does not appear to be ruled by the decisions to which I was referred. It is not a case of there being an imperfect document of debt which has been supplemented by parole proof, as in the well-known cases of *Bryan v. Butters* (19 R. 490) and *Paterson v. Paterson* (25 R. 144). Neither is it a case of there being an existing document of debt which has not been delivered to the lender. It is, however, a clear case of the bankrupts having received the money from the appellants, and the bankrupts delivered no document of debt to the lenders, but they acknowledged the loan in their own books and credited the lenders with the amount. It seems to me that after making these entries in their own books the bankrupts are not entitled to ignore them, and the trustee is in no better position than the bankrupts themselves. It is not a case of the bankrupt proving a debt by his oath of reference, which, of course, is incompetent, but it is the case of a debt appearing to be due by the bankrupt's own books, and the debt is therefore constituted by the bankrupts' own writ. There appears to me to be nothing ambiguous or unsatisfactory in the bankrupts' books, and the trustee is bound to take the estate as disclosed by the bankrupts' own books which are not alleged.

I need not refer to the many well-known cases which were cited—such as *Duncan's Trustees v. Shand* (11 Mac. 259), *Dunn's Trustees v. Hardie* (23 R. 633), and the above-mentioned cases of *Bryan* and *Paterson*—because in my opinion these cases have no real bearing on the present case; but I have to refer to a dictum of Lord MacLaren in the case of *Paterson*, where in dealing with exceptions to the ordinary rules of proof by writ he says: "I am not prepared to admit such an exception to the ordinary rules of proof by writ, which undoubtedly include signed letters, although neither holograph nor tested, and even entries in account books kept by the party who is charged with the debt." This last clause clearly indicates that such entries as exist in the present case in the bankrupts' books prove the debt to which the entries apply.

On the whole, I consider that it is a case for each party paying his own expenses, as the trustee was entitled in a case like the present to have judicial authority for the ranking of the debt.

(Intd.) D. D. B.

Bank Rate of Discount.

Sept. 28th 1905	..	..	..	..	..	..	4%
April 5th 1906	..	..	..	..	..	..	3½%
May 4th ..	..	..	..	..	..	..	4%
June 21st ..	..	..	..	..	..	..	3½%

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Leading Articles.

The Depreciation of Plant and Machinery.

IN our issue of the 23rd June last we reproduced a very interesting and instructive paper on "The Depreciation of Plant and Machinery," which was read by Mr. H. STANLEY GARRY, C.A., at a meeting of the Nottingham section of the Society of Chemical Industry.

This paper, although quite short, embraces a good deal of ground, and will be found of value not merely on account of the information that it contains, but also by reason of the reflections that it suggests. Dealing as it does with a question that has frequently been dealt with in almost all its numerous aspects, both in these columns and elsewhere, but little will be gained by our now discussing it exhaustively and seriatim. We propose, therefore, to merely single out one point which, it seems to us, has not hitherto attracted all the attention that it

deserves—namely, the respective advantages of providing for depreciation at a fixed percentage upon the original cost and at a fixed percentage upon the diminishing value of the asset.

It of course goes without saying that, if the last-named method be employed, the rate per cent. at which the asset is written down must be considerably higher than would be necessary under the first-named method to produce an equally satisfactory result at the end of any given period. For instance, Mr. GARRY points out that 5 per cent. upon the original cost will entirely exhaust an asset at the end of 20 years, but will leave the residual of 37·07 per cent., if 5 per cent. upon the diminishing value be substituted. Probably something like 10 per cent. or 12½ per cent. would be nearer the mark, as the former would leave a residual value of 12·15 per cent. and the latter a residual value of 6·92 per cent.; which last-named would certainly not be an over-estimate in the case of the majority of items of plant and machinery. It being thus clear that, if the fixed percentage on the diminishing value be taken as the basis for depreciation, the effect must necessarily be to charge a *larger* sum against profits during the earlier years, and a smaller sum during the latter years of the life of the asset, than would be necessary to arrive at the same eventual result if the fixed percentage upon the original cost were taken as the proper basis, the question that remains to be considered is as to which of these two methods most nearly meets the practical requirements of normal situations.

The lecturer mentions the argument in favour of the calculation on the diminishing value, that the sums written off are greater in the years when the repairs are small, and that

this tends to equalise matters; but adds that too often the two factors of rate and basis have not been settled together, and in consequence the adoption of the basis of diminishing value has the effect of leaving a considerable value in the books when the plant has disappeared. There can be little doubt that, as the lecturer states, too often a rate of depreciation is adopted which does not write down plant to its residual value by the time that it becomes necessary to replace it; but we are not aware that this state of affairs is in practice confined to those undertakings which adopt the fixed percentage on the diminishing value—nor, even if it were, could the whole matter be regarded as being thereby effectively disposed of. In all cases, before the question of depreciation can be seriously considered at all, it is necessary in the first instance to obtain an estimate of the working life and of the residual value; and if this data be supplied, together with the original cost of the asset, it is as simple to calculate the proper rate upon the one system as it is upon the other. What requires to be considered is which system *most fairly charges the profits of successive years with the benefits respectively derived by those years from the use and enjoyment of the assets.*

It is true that in many cases the fixed percentage on the diminishing value is adopted as a rough-and-ready method of compensating for steadily increasing charges for repairs that may be expected under normal circumstances, but this one point by no means exhausts the matter. Charges for repairs and small renewals can be readily equalised over successive years without mixing their provision up with the necessary provision for eventual complete renewal; and under certain circumstances it is clearly desirable that these two matters should be kept

separate and distinct. There remain, however, other points to be considered.

In the first place it is, in the majority of cases, a very open question whether the effect of such repairs, and such small renewals as may be practicable from time to time, is to so maintain the asset in a full state of working efficiency as to enable the latter years of its life to enjoy the same benefit from its use as the earlier years. In the vast majority of cases there can be little doubt that no mere repairing can achieve this end. Most plant and machinery is in its highest state of efficiency ; can turn out the best work ; turn it out most quickly, with the least supervision (and with the least waste arising from non-production during the days when it is necessarily out of use while undergoing repair), during the earlier part of its working life. In workshops where plant is superseded the moment it shows signs of deterioration this argument applies only to a very limited extent, but in the majority of cases it is one that certainly ought not to be overlooked.

Then, again, there is the risk of obsolescence, the due provision for which requires some charge to be made against profits in excess of that which would be necessary for mere wear and tear ; and that charge ought in fairness, we think, to be borne more fully by the years in which the equipment is comparatively new than in those in which it is already becoming quasi-obsolete. Where the rates of percentage employed make no provision for obsolescence, it is obvious that this argument cannot be utilised either one way or the other ; but there can be little doubt that in the majority of cases, and for most classes of plant and machinery, some such provision ought to

be made, and it can obviously be most conveniently made in those years when the equipment is most perfect, and when the highest profits are capable of being earned.

Then, again, it ought not to be overlooked that, if the fixed percentage on the original cost be employed, in each successive year the apparent effect is that an *increasing percentage* is being charged. Thus, if 10 per cent. off the original cost be charged against an asset worth £1,000, at the end of the first year the item would appear thus in the Balance Sheet :—

Plant and Machinery (at cost)	..	£1,000	
Less Depreciation	..	100	
		—	£900

At the end of the sixth year the item would be as follows :—

Plant and Machinery (as per last Account)	.. .. .	£500	
Less Depreciation .. .. .	.. .. .	100	
		—	£400

In that year, therefore, assuming the customary method of dealing with the item in the Balance Sheet be pursued, the apparent rate of depreciation is 20 per cent., and in such cases there is a strong temptation, if profits are declining, to *reduce* the rate, and the inadequacy of the reduced rate is not apparent. Of course, this objection can be obviated by adopting an unusual method of stating the item in the Balance Sheet, as follows :—

Plant and Machinery (at cost)	..	£1,000	
Less Depreciation (six years)	..	600	
		—	£400

And then it would at once become clear that a reduction in the depreciation rate was being made, if such a reduction were attempted ; but, with the customary method of stating assets and provision for depreciation in Balance Sheets, the danger of employing the fixed percentage upon the original cost is by no means an imaginary one.

It remains to consider the comparative facility with which the two methods of providing for depreciation may be applied in practice. If the fixed percentage upon the original cost be employed, inasmuch as additions are always being made to plant from time to time, it becomes essential, if the item is to be properly and systematically dealt with, that the amount charged for Depreciation should not be credited to the Plant and Machinery Account, but to a separate account entitled "Reserve for Depreciation." This too often degenerates into the provision of *one* Reserve for Depreciation, instead of a number of separate accounts for different classes of assets; and, as such, it is inconvenient and open to abuse. On the other hand, if the fixed percentage upon the diminishing value be employed, the provision for Depreciation can, and must be, credited to the Asset Account in order to arrive at the diminished figure. It is true that, if successive additions were to be debited to this same account, it would be difficult, if not impossible, to see, when an asset was "scrapped," whether its book value had actually been written down to zero. There are, however, so many advantages in opening *separate* Ledger Accounts for such additions, as and when acquired, that any objections that might be experienced under this heading lose in practice whatever significance they might possess in theory.

Upon the whole, therefore, we think that, so far as plant and machinery are concerned, the fixed percentage upon the diminishing value is the better method of providing for depreciation. In certain cases it may have the effect of charging an excessive sum against the profits of the first two or three years; but the secret reserve so created is, we think, never likely

to exceed the reserve desirable to provide for obsolescence, and is therefore entirely unobjectionable, and certainly a secret reserve created by this means is one of the least objectionable that can well be conceived.

Elective Auditors' Duties.

THE case of *Stevenson v. The Bexhill Corporation*, which appeared in our Law Reports of the 11th ult., is one which raises several points of considerable interest to our readers, although the main issue—namely, that as to whether an Elective Auditor is entitled as a matter of course to charge two guineas a day for every day that he chooses to devote to the audit of the Corporation's Accounts—may concern them less than local authorities and the class of persons usually elected to audit a Borough Treasurer's accounts under the provisions of the Municipal Corporations' Act, 1882.

If it were to be held that the Elective Auditor was the sole arbiter as to the amount of time to be properly devoted to the discharge of his statutory duties, it is clear that, in many cases at least, local authorities would be called upon to make excessive payments under this heading, without any corresponding improvement being effected in the class of person ordinarily elected to this much abused office. The Public Health Act, 1875, provides that in the case of a Town Council the Borough Auditors shall be paid in respect of each audit, such reasonable remuneration, not being less than two guineas for every day in which they are employed in such audit, as the Council may from time to time appoint. The significance of the words "employed in such audit" must not be over-

looked. They have now been held by his Honour Judge SCULLY to mean "reasonably employed in such audit," thus limiting the Borough Auditor's claim for remuneration to payment for time properly and necessarily occupied by him in the discharge of his statutory duties.

The plaintiff appears to have relied upon *Thomas v. The Corporation of Devonport*, decided by the Court of Appeal in November 1899, but he seems to have made the mistake of confusing the *obiter dictum* of the late Lord RUSSELL OF KILLOWEN with the actual judgment of the Court. The plaintiff in that case claimed forty-seven guineas, and the Court held that the thirty-four pounds paid into Court was sufficient remuneration for his services. It will thus be seen that Judge SCULLY has broken no new ground in deciding that an Elective Auditor is not necessarily to be paid for the whole of the time spent by him, but only for that reasonably and necessarily occupied in the discharge of his duties.

Apparently, however, the plaintiff was led away—or shall we say misled—by the late Lord RUSSELL's statement that such an auditor was not only entitled, but justified and bound to go further than to see whether there were vouchers, formal and regular, justifying each of the items in respect of which the authorities sought to get credit upon the accounts, and should make a fair and reasonable examination of the accounts and see whether there might not be amongst the payments made payments which were not authorised, or which were illegally made. In this connection it may be pointed out that the express provisions of a clearly-worded section of an Act of Parliament are a safer guide for all practical purposes than the *obiter dictum*

even of a Lord Chief Justice. The duty imposed by statute upon Borough Auditors is to audit the accounts of the Treasurer, and although (as Judge SCULLY pointed out) it may on occasions be necessary for the auditor to examine other accounts before his audit of the Treasurer's accounts can be regarded as effective, his duty does *not* extend to the whole of the accounts kept by the Corporation. Consequently, any time spent in examining any accounts other than the accounts of the Treasurer, which is *not* necessary in order to enable these accounts of the Treasurer to be verified, is not time spent in the discharge of the auditor's statutory duty, and, in consequence, not time for which he is entitled to claim remuneration under the Act.

As a question of law all this is very plain and clear, but when one comes to apply it in actual practice it must be admitted that the decision must be regarded as unsatisfactory, if one seriously considered that any useful public purpose was served by the statutory elective audit. If any serious reliance were to be placed upon the Elective Auditor's certificate, it is clear that there would be considerable danger arising from a decision which threw upon the auditor the onus of proving that every time he called for evidence outside the Treasurer's books to justify an item before passing it in the accounts he was liable to have the time devoted to such inquiry disallowed, as being time wantonly wasted. Such a mode of remuneration would certainly not tend to encourage satisfactory results; but inasmuch as the whole system of elective audits is already hopelessly discredited, we cannot but welcome any decision which tends to demonstrate its utter futility, as one cannot help thinking that by that means the date of its abolition and the substitution of a more

efficient form of audit must be hastened. In the meanwhile the majority of self-respecting local authorities have done all that lies in their power to remedy the existing anomalies by instructing professional accountants to make an audit of the whole of the books, and report thereon in the usual business way. Where such a professional audit exists it is obvious that there remains little or nothing that the Elective Auditor can usefully do, and under such circumstances no great harm can be done—more especially bearing in mind the type of man usually elected—if the statutory audit be admittedly perfunctory; certainly it requires a somewhat strong case to justify the expenditure of any considerable amount of time in performing an examination which has already been completed by much more experienced hands. Bexhill, like most other progressive Corporations, possesses such a professional audit, and this fact doubtless influenced His Honour in determining that two days was a sufficient amount of time for the plaintiff to devote to his duties as Auditor under the Public Health Act, 1875.

The Accountants' Reports to the War Stores Commission.

THE Report of the Royal Commission on War Stores in South Africa has been followed by the issue of Blue Books containing minutes of the evidence given before the Commission and the reports of the Chartered Accountants appointed to examine the documents upon which the investigation was based. These latter represent Vols. 3 and 4 of the Report as a whole, and are far too voluminous for us to attempt even to summarise them in these columns. They are, however, worthy of careful perusal even apart from the interest attaching to the subject matter, as showing

how the results of an enormous investigation may be conveniently focussed and condensed within a reasonable space.

Vol. 3 comprises the report, with appendices, of Messrs. ANNAN, KIRBY, DEXTER & Co., Chartered Accountants, of 21 Ironmonger Lane, E.C., which they state has been prepared conjointly with their friends Messrs. DELOITTE, PLENDER, GRIFFITHS & Co., who are partners in their South African firm. Their investigation has brought to light a deplorable lack of even elementary business care in the manner in which the accounts in South Africa have been kept; errors of addition and of carrying forward being frequently seriously incorrect, while in many cases there were inadequate descriptions of the unit of quantities, and other evidence that the detailed work was apparently as badly performed as the general administration was supervised. The report states: "It is to be regretted that, in a matter so largely involving technical accountancy, knowledge, and training, the War Office did not at the outset realise the advantages which would accrue to the Service as a whole, and to the control of the Central Account especially, had the Director of Supplies had the advice and assistance on the spot of representatives of the Finance Department of the War Office competent to make recommendations, and, if necessary, to supervise their effective introduction." After what has transpired, however, one may well be sceptical as to whether the War Office has in its employ representatives who are competent to give the required advice and assistance to the Director of Supplies. It is hardly to be expected, indeed, that anyone permanently employed by the Government should possess the requisite

ability and experience to enable him to promptly grapple with what is for all practical purposes an enormous commercial business of such rapid growth that there exists no trained staff to deal with it upon traditional lines. Obviously, the only businesslike course to pursue under such circumstances is to call in professional aid from outside, at no matter what cost; for, as the events in this case have shown, a very large sum indeed expended in adequate organisation would have repaid itself many times over in the freedom from preventable losses, which are stated in this Report at no less than £1,203,266.

Volume 4 is the report of Messrs. DELOITTE, DEVER, GRIFFITHS, ANNAN & Co., of Johannesburg, on Messrs. MEYER, Lim., which contains much interesting information with regard to that company, extending over upwards of two hundred pages. The conclusion arrived at by the accountants is that it has disclosed transactions which in their opinion are very suggestive, and which require the strictest scrutiny. They also comment upon the non-production of documents which are stated not to be in existence, although they have distinct evidence that accounts were forwarded by the agents to the head office.

That the Royal Commission were well advised to secure an exhaustive inquiry into all the facts undertaken by independent Chartered Accountants is, of course, beyond question, and this view is well borne out by a perusal of the very complete reports that are now before us. As we have already stated, had professional assistance been invoked at the proper time there are good grounds for supposing that the irregularities disclosed in the Royal Commission's Report would have been

practically non-existent, and that the preventable losses caused by those irregularities would not have been sustained. It is, perhaps, almost too much to hope that the War Office will take this lesson sufficiently to heart to realise that in future its business transactions will be best managed upon business principles by men who have had a business training; but unless this somewhat obvious proposition be duly appreciated, there is, so far as we can see, no assurance that the exhaustive inquiry recently concluded by the Royal Commission on War Stores will have served any permanently useful purpose. Such an inquiry was not presumably instituted for the sole purpose of bringing defaulters to punishment, but rather with a view to attaining more abiding results. Until, however, it is realised that the military training *per se* is valueless as a qualification for business positions in connection with the organisation of an army in the field, there would appear to be no guarantee that the next serious war engaged upon by this country will not provide us with a repetition of the scandals of 1903.

Weekly Notes.

Life Assurance and Discrimination.

Complaint is made in the columns of a financial contemporary at the practice of cutting tabular rates of premium when in competition for cases of large amount, which is said to be carried on by a well-known mutual life office. It is urged that to a mutual society great expansion of business is valuable only when obtained at a moderate cost, and when all the members are put on the same footing. Another argument put forward is that the manager of such an office is merely the paid servant of the members, and it is his duty to see that perfect equality is accorded to all, the policy of discriminating between members leading to abuses which have been well illustrated in America. We presume that the argument of the insurance officials will be that they are

justified in lowering rates to secure business, but this practice as regards mutual offices certainly does appear a little unfair.

The Exchequer and Death Duties. The Chancellor of the Exchequer may indeed view the record of receipts on account of death duties with no small amount of satisfaction, seeing that for the week ended 1st September the figures exceeded, by more than £160,000, the weekly average required to make up the estimate of £13,200,000 for the whole year. During the twenty-two weeks from 1st April to 1st September £6,694,000 was received, as compared with £5,908,000 in the corresponding period of last year.

Closed Theatres and Rates. An interesting point was raised at Bow Street last week when the Lyceum (1903), Limited, was summoned for non-payment of rates due to the Westminster City Council. On behalf of the trustees for the first debenture-holders, it was contended that they were not liable for rates after the date when the house had been closed, as they were in the same position as the owners of an empty house. The view taken by the Council was said to be that when seats remained in a theatre and it was ready to be let at any time there was beneficial occupation. Sir Albert de Rutzen adjourned the case for a fortnight to consider his decision. In another similar case the summons was also adjourned.

Banks and Dividend Delays. Regarding the complaints as to the alleged delay in the payment of dividends on Japanese Stocks, the Yokohama Specie Bank is reported to have said that three clear working days are required between (and other than) the day of receiving the coupons and the day of despatching the cheque. Saturday is a *dies non* as regards this particular portion of the bank's business, and therefore, if coupons arrived at the bank on 29th August, the cheque would not be sent until 4th September. It is also said that the Japanese Government are very strict in their requirements as to the examination of the coupons, but in any case a fairly convenient notice is given by advertisement of the due dates, so that there should be but little ground for complaint.

Banks and Banking in Constantinople. A recent American Consulate report reveals some interesting facts relative to banking in Constantinople. We are told that no charges are made for the keeping of accounts beyond the usual cheque book items, and

until quite lately no interest was allowed on balances of current accounts. The State Bank alone enjoys the privilege of a note issue, which is secured by gold held in reserve. Notes are for 22 dollars in value only, and no multiples. Banks are not taxed for State and municipal purposes, and are under no obligation to publish Balance Sheets.

Gold Mines while You Wait. The practice of "salting" in connection with mining matters is not altogether unknown, but the following circular, which the *Engineering and Mining Journal* of New York states has been sent to a mining engineer, is peculiarly naive:—

"DEAR SIR,—Do you want beautiful, showy, large gold in quartz, silver, copper, galena, and other rare minerals? We can make you up a fine collection at a reasonable price. It will help you a great deal to sell your mining stock. It may be very true that you have a rich mine, and your ore, in analysing it, shows a high percentage of ore, but most of the capitalists do not understand the ore, only experts understand your rich ore. So we make the following suggestions:—

"Show your stock buyers something showy and fine, and you will have no trouble in selling your stock and increase your business successfully. Throughout our experience we have fitted up several mining concerns. Through a fine exhibition of rich ore they raised a large capital, and the result was that they doubled their output, because they increased their working capital. So we invite you to our place of business, and we will show you some fine specimens."

"The City's Cash." The annual financial statement of the Corporation of London, which has just been issued, would certainly rejoice the heart of a district auditor bent on surcharge, for the flavour of old times still lingers round entries of the following nature:—

	£	s	d
Swordbearer, one year's salary ..	600	0	0
Do. official costume..	25	0	0
Common cryer and serjeant-at-arms, one year's salary	300	0	0
Trumpeters, attending processions, &c.	26	5	0
Four aleconners, ancient salaries ..	40	0	0
Six poor couples of almsfolk residing in Rogers' Almshouses, allowances	212	6	8
Clothing for four widows of St. Botolph, Bishopsgate	5	0	0
City Marshal, uniform and gloves ..	93	16	0
State coach and harness, repairs, &c...	375	7	9
Purple silk robe for the Right Honourable the Lord Mayor.. ..	17	10	0
Crimson velvet royal reception robe for ditto ..	65	0	0

The figures are not exactly of general interest, and there does not appear to be any improvement in the setting-out thereof, for most of the critics confess as to the puzzling nature of the transfers. *The Financial Times* says that the humble ratepayer "must still needs sigh for that model Chamberlain who will one day present him with a *Balance Sheet* and say, 'This is exactly what you receive and what you spend in the course of the year.'" We feel quite sure that our contemporary knows that such a statement would not be a *Balance Sheet* at all. The evil of calling the Exchequer Receipts and Payments Account "the Nation's *Balance Sheet*" is, perhaps, responsible for the error.

Debtors and Apprentices. The question raised by Mr. F. V. Bradford, in a letter which appeared in our issue of the 1st inst., is one upon which, so far as we are aware, there are no cases, for the simple reason that the claim of an apprentice is not included in the Preferential Payments in Bankruptcy Act, 1888, as one of those to have priority over all other debts in the distribution of the assets of any company being wound up. An apprentice's claim to preferential treatment is provided for by Section 41 of the Bankruptcy Act, 1883, which does not apply to companies in liquidation. Apparently, therefore, in the case referred to, the apprentices must rank as unsecured creditors if their indentures have been entered into with the company. If, however, they have been entered into with individuals, they would presumably not be affected by the winding-up order.

Payment of Back Income Tax by Executors. In our issue of the 11th ult. a correspondent signing himself "A.C.A." asked our opinion as to the liability of executors who had paid a large sum to the Inland Revenue authorities as representing the amount of income-tax lost by the Revenue during the previous ten years, owing to the testator having paid upon false returns, it being mentioned that the statutory legatees dispute the payment. It is, of course, impossible to express any decided opinion upon facts that are only stated in such bare outline as this. We may point out, however, that an executor is undoubtedly entitled to make any payment which he thinks necessary for the honour of the deceased testator, as, for instance, of a statute-barred debt. For our own part, we feel little hesitation in saying that no Court would hold an executor personally liable for paying over to the

Revenue moneys fraudulently withheld by a testator, even although such moneys might not be a debt then legally recoverable from the testator's estate. On the other hand, the executors must, of course, take reasonable steps to satisfy themselves that the claim of the Inland Revenue authorities is correct, and any payment made by them without due inquiry might reasonably be disallowed if subsequently proved to be improper.

Parliamentary Companies and their Capital Accounts.

In reply to our correspondent "X.," whose letter under the above heading appeared in our issue of the 11th ult., the statement of share capital of a parliamentary company should include not only the amount of capital originally authorised, but also all subsequent additions thereto. Under the facts stated, therefore, the total amount authorised should appear at £15,000.

The Value of an Accountancy Goodwill.

In inquiring as to the realisable value of the goodwill of any business many points have to be taken into consideration besides the average net profits, and it is therefore impossible for us to give any very useful answer to our correspondent "T.," whose letter appeared in our issue of the 1st inst. We may mention, however, that the average of past years' profits is less material than the amount of annual profits that can be reasonably relied upon in the future. In an accountancy business a considerable fraction of the goodwill is frequently non-transferable owing to its purely personal nature, but if the vendor remains in the business, and is merely disposing of a share, this consideration naturally does not apply, and under normal circumstances somewhere about three years' purchase might be regarded as a fair valuation. Naturally, however, the goodwill would be more valuable if the profits were relatively large than if considerable expenses had to be incurred in earning them. Another point that should not be overlooked is that where the purchaser of a share in the goodwill of a business brings in such skill as may reasonably be assumed in connection with an accountancy practice, he brings in a commodity for which he may expect a certain return quite irrespective of any premium that he may pay. That being so, a half-share which only produced between £200 and £300 per annum would naturally be worth very much less *pro rata* than one producing, say, two or three times that amount.

The Bankruptcy Act, 1883, Section 103 (5). In a letter which we reproduced in our issue of the 18th ult. a correspondent inquired whether a judgment creditor could claim a receiving order from the Court as a matter of right upon complying with the provisions of Section 103 (5) of the Bankruptcy Act, 1883. We venture to think that a careful perusal of the wording of this sub-section will answer the question without reference to cases. Section 5 of the Debtors' Act, 1869, provided that the Court may commit a debtor to prison under certain circumstances: Section 103 (5) of the Bankruptcy Act, 1883, provides that the Court may, if it thinks fit, decline to commit, and in lieu thereof, with the consent of the judgment creditor and on payment by him of the prescribed fee, make a receiving order against the debtor. There is nothing here suggesting any compulsion upon the part of the Court to make a receiving order under the circumstances named. It may, if it thinks fit, as an alternative to committing a debtor; but should it think a receiving order undesirable there is nothing to compel the Court to make one, or indeed any order at all. It may be added that no creditor is ever entitled to a receiving order as a matter of right. It is made on petition, and only where the Court thinks fit. There are numerous records of cases in which a petitioning creditor has been refused a receiving order, notwithstanding the fact that an act of bankruptcy has been committed and there is a debt due to the petitioning creditor exceeding fifty pounds.

Requirements of Stock Exchange for Quotations. The question as to the sufficiency of summarised Balance Sheets being issued by a company again comes to the front in a letter signed "Omega," which appeared in our issue of the 25th ult., and our correspondent asks our opinion as to the responsibility of the auditor for such summary, and as to whether it is the summarised Balance Sheet or the full Balance Sheet that is adopted by a company at its general meeting. So far as the regulations of the Stock Exchange are concerned, these are laid down by the Committee as conditions upon which an official quotation will be granted; but, so far as we know, if the Committee grants a quotation under the mistaken impression that its requirements have been complied with, no one incurs any liability, unless, of course, their action brings them within the scope of the criminal law. The responsibility of directors and other officers of a company are defined by the Companies Acts, and by the articles of associa-

tion of the particular company concerned. Section 23 of the Companies Act, 1900, requires the auditor to report to the shareholders on the accounts examined by him and on every Balance Sheet laid before the company in general meeting during his tenure of office. In the ordinary course of events, the Balance Sheet laid before the company in general meeting is the printed or summarised Balance Sheet; but, of course, if a fuller Balance Sheet be submitted, the auditor's report would have to be upon that. In any event, however, we think it clearly desirable that an auditor should satisfy himself as to the correctness of the Balance Sheet actually printed with his name appended thereto.

Official Auditors and Limited Certificates.

Upon p. 133 of our issue of the 4th ult. a correspondent drew attention to the fact that the District Auditor, in certifying the accounts of the Metropolitan Borough of Holborn, had stated that he had "as far as possible" satisfied himself of the correctness, completeness, and legality of the entries contained therein. One can quite understand that after previous disclosures Mr. A. Carson Roberts may well wish to avoid overstating the effect of his audit, but it may be questioned whether the introduction of the qualifying words "as far as possible" is necessary, or indeed of any practical value. In the form in which the accounts of these local authorities are kept there is but little scope for matters of opinion, and therefore nothing to interfere with an absolute certification as a statement of fact, provided a really efficient audit has been performed; but, of course, if only a partial audit is undertaken, something must of necessity be taken for granted, and, in that event, the qualification "as far as possible" would become intelligible. With regard to its practical value, so far as we are aware, District Auditors incur no personal liability, and, in consequence, it would appear to be quite immaterial as to what form of wording be employed so far as the question of holding the auditor responsible for the truth of his certificate is concerned. But if the words were employed by anyone other than an official—who would, of course, be legally responsible for his acts and defaults—they would, we think, be valueless as a qualification. The investigation that an auditor is expected to make is in all cases limited to that which a reasonably competent and cautious person would perform under the circumstances—a limitation which carries one even further than "as far as possible." The qualification

is thus, it appears to us, from every point of view unnecessary, and is, we think, calculated to have a needlessly disturbing effect upon those who may have occasion to peruse the auditor's certificate.

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinions expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Allotment Letters.

(To the Editor of The Accountant.)

SIR,—Can any of your readers who are secretaries to companies inform me whether it is absolutely necessary to send allotment letters in the case of shares paid for in full on application, and where certificate of the shares is issued on allotment? A case in point has come under my notice where a company sends out allotment letters, each bearing the 6d. impressed stamp, on the night of each board meeting; the shares having all been paid in full with the application form, the allotment letters are returned to the office the next day by the shareholders, they are then carefully filed away in order—never to see daylight again. The same result would have been attained if the company had filled up the allotment letters and filed them away without passing them through the post to the shareholders at all.

What are the consequences if an allotment letter is not sent?

Yours faithfully,

September 6th 1906.

V. C.

[If an application for shares is not unconditionally accepted, it may be withdrawn: the allotment letter constitutes formal notice of acceptance.—ED. ACCT.]

Capital v. Revenue.

(To the Editor of The Accountant.)

SIR,—We shall be glad to have your opinion on the following points:—

A client of ours, who is a manufacturer, had occasion to extend his mill. To enable him to do this it was necessary to pull down and rebuild a wall.

This wall originally formed the outside of one end of his mill, but, through the extension, now becomes the inner wall, and has had to be built stronger than before.

Should the cost of pulling down this wall be charged to Capital Account, along with the cost of rebuilding same, or is it, in your opinion, chargeable against the trading profit?

Our inquiry is in connection with our client's income-tax.

We should be glad to have your opinion through the medium of your valuable paper.

Thanking you in anticipation,

We are, yours faithfully,

September 7th 1906.

ENQUIRER.

[The expenditure all appears to represent sums expended in improvement of premises, in which event it is not allowed as a deduction from profits assessable for income-tax.—ED. ACCT.]

Income Tax Appeal.

(To the Editor of The Accountant.)

SIR,—I shall be obliged if you would kindly give me an answer to the following question:—

A. B. has a large wine and spirit business, and has been assessed for 1905-6, Schedule D, on the three years' average, at £1,000. An appeal is lodged under Section 133, and the average, including the year ending December 1905 (which shows a very considerable loss), then works out at a loss of £500.

A. B. is the owner of the property in which the business is carried on, and has paid Schedule A tax on an assessment of £200.

Can a claim for the return of tax paid be made both in respect of Schedule A £10, and also on Schedule D £50?

Would the answer be in any way altered if A. B. were a limited company?

A. B. has no income from any other source.

Yours faithfully,

September 7th 1906.

C. D.

[See Murray & Carter's "Guide to Income-tax Practice," p. 122, third edition.—ED. ACCT.]

Company Law Amendment.

(To the Editor of The Accountant.)

SIR,—May I be permitted to make one or two observations on the subject of the first paragraph in your leading article (pp. 253 and 254) of the current issue.

With regard to the anomalous position of creditors of a company when a receiver has been appointed on behalf of debenture-holders, it is suggested that notice of the appointment should be given to the Registrar of Joint Stock Companies and that the receiver should file with the Registrar an abstract of receipts and payments for each half-year during the receivership. You find no fault with the suggestion, but proceed to express the opinion that the receiver should not be required to file this statement until it has been passed by the Court. You also state that it is not the practice of the Court to pass receivers' accounts more frequently than once a year. With this latter statement I should like to say, for the guidance of those who have not had the experience, that a receiver appointed by the High Court is usually required to bring in his accounts every half-year. In the case of a receiver appointed under a lunacy order there appears to be a relaxation of this principle, and once a year is sometimes the period ordered.

Will you allow me to present an opinion that a mere abstract of receipts and payments would not assist the liquidator to any great extent, and I would rather favour the view of a complete copy of the account being taken in by the receiver with his Court account. The affidavit would then state that the copy is a true one, and it would be marked as an exhibit and signed by the attesting Commissioner. The copy might bear a stamp fee of 1s. to pay for the trouble of the Court handing the copy to the Registrar of Joint Stock Companies, which should be done within seven days of the account being passed. One might go further and say that a further copy should be sent to the liquidator, who possibly might not be in funds to pay for it. But I think it should be enacted that the receiver should be at liberty to charge for the copy or copies in his account at the usual rate. If this plan is adopted it will have a very far-reaching effect, and so long as Chartered Accountants are prompt in taking in their accounts it can only raise their reputation before the Judges.

Yours, &c.,

PAUL E. GAUNTLETT.

London, 10th September 1906.

[Formerly receivers appointed by the Court were required to deliver their accounts annually; under the present practice the Judge may, at his discretion, fix a longer or shorter period for a receiver to leave and pass his accounts.—ED. ACCT.]

The Percentage Question Again.

(To the Editor of The Accountant.)

SIR,—Would you kindly tell me, through your widely circulated journal, what percentage I get if I buy an article for 1s. and sell it for 2s.?

I shall be much obliged if you will say in your next issue.

I remain, yours respectfully,

8th September 1906.

S. T.

P.S.—The interest on my turnover?

[50 per cent. on the turnover, or 100 per cent. on the cost.—ED. ACCT.]

Income Tax.

(To the Editor of The Accountant.)

SIR,—I should be glad if any of your readers could kindly inform me if any case on the above subject has been decided similar to the following:—A manager of a hotel, in addition to a salary of £130, receives his bed and board free of cost. Obviously his keep is worth more than £30 a year to him. Is he liable to pay income-tax?

Yours &c.,

10th September 1906.

LAW OF EQUITY.

Stock Exchange Reform.

(To the Editor of The Accountant.)

SIR,—I venture to solicit the influence of yourself and readers on behalf of Stock Exchange reform. It is not amendments to the Companies Acts that are wanted for the protection of the public, so much as reform in Stock Exchange procedure.

It is on the Stock Exchange where the harm is done, and the public require protection against unscrupulous promoters riding through the rules of the "house" to corner or rig their shares.

The privilege of running stocks or shares on the Stock Exchange is for the benefit of the public and not individuals. It would therefore, in my humble opinion, be for the benefit of all concerned if the Government, through the Board of Trade, had some control over the Stock Exchange Committee, in order to see that the rules of the "house" are complied with, and that the game is being played fair between the promoters and the public.

It is notorious that the system of lying and extortion practised by many promoters is undermining the morals of the commercial community and making us a nation of hypocrites.

The appointment of a Stock Exchange Reform Committee would, I believe, do much for commercial morality, and to some extent mitigate the evil of Stock

Exchange gambling and robbery by the cornering or rigging of shares.

I would submit the following suggestions for the consideration of such a Committee, namely:—

(1) The appointment of a Government Auditor, who should be an experienced accountant, to audit all the books and documents required by the Committee of the Stock Exchange before granting an official quotation for the shares of any company.

(2) That no official quotation be granted without the auditor's certificate certifying that the public unconditionally hold two-thirds of the shares, and that the rules of the "house" have been complied with.

(3) All transfers to be made for full consideration, and nominal consideration prohibited.

Yours truly,

10th September 1906.

DONALD.

[We do not altogether agree with our correspondent upon details, but we shall be glad to see this subject further discussed.—ED. ACCT.]

A Bookkeeping Question.

(To the Editor of The Accountant.)

SIR,—With reference to the letter of your correspondent "Weary," appearing in last Saturday's issue, his entries, in my opinion, would be correct; the sale to Smithson & Co. for £300 was a complete and legitimate transaction, and the entries debiting Smithson & Co. and crediting Sales would be quite in order.

When the oil was offered back to Johnson & Co. for £357 they probably accepted the offer because they thought they would be able to make a still further profit as the market was rising; this would be a complete and legitimate purchase, and the entries debiting Purchases Account and crediting Smithson & Co. would be in order, although it would probably be better to debit the repurchase to a special account in order to show the profit or loss arising from the transaction.

Yours faithfully,

11th September 1906.

C. H. B.

Book on Rating.

(To the Editor of The Accountant.)

SIR,—Can you or any of your readers recommend me a good text-book on the rating of small house property outside the metropolis?

Thanking you in anticipation,

I am, yours faithfully,

10th September 1906.

MIDLANDS.

"Penfold on Rating" is probably the best book for our correspondent: see, however, *Accountant*, XVII., p. 547; XVIII., p. 548.—ED. ACCT.]

Stockbroking in India.—II.

Calcutta.—The European Broker.

By GEORGE CECIL.

LIKE the native broker, the European broker domiciled in the "City of Palaces" finds it necessary to treat his clients as Mahomet did the mountain. He may possess an office, and from it communicate with his *clientèle* by means of the telegraph, telephone, or the equivalent for the penny post; but more often the Calcutta broker is a perambulating person, and spends his days in visiting those for whom he buys and sells shares. It should also be borne in mind that his brokerage amounts to one rupee (one shilling and fourpence) a share; that although his *confrères* are exceedingly numerous, many a "broker-sahib" eventually retires on an appreciable income, which is derived from a judicious investment of his savings.

Although on the Paris Bourse, in Wall Street, and in the City stock rises and falls in fractional degrees, in India the market fluctuates a rupee at a time, occasionally rising or descending to the extent of four annas (fourpence). Calculation is thus made exceedingly easy for the European brokers of Calcutta, who, in common with their fellow Anglo-Indian brethren, are not invariably overburdened with intelligence. Still, they are fairly keen on securing business, though it is on record that an abnormally long "luncheon hour" has prevented more than one broker from gaining a commission. The continued imbibing of whisky-and-soda at the mid-day meal has also seriously interfered with the successful career of the Calcutta broker. Indeed, not long ago, an inebriated Caledonian sharebroker entered the office of a Christian client whilst under the influence of various liquid mixtures, and sold his patron a quantity of stock at a rupee a share above the market price. His downfall was quickly effected, and he eventually became a standard-bearer in the local regiment of the Salvation Army.

In addition to the stockbrokers, there are also jute and tea brokers, both of whom amass snug competencies, provided that they *work* and do not trifle away their time, as, alas! some of the fraternity do. Those who spend their days in scheming to obtain the *entrée* to the Viceregal circle, and their nights in cultivating those who are socially blest, will find the rupees slipping from them. But the hardworking broker, be his line produce or shares, usually does well, especially if he is fortunate in the selections which he places at the disposal of his clients; for not only does an appreciable large amount of stock change hands every week, but the native is also becoming an operator, though by somewhat slow degrees. Moreover, in spite of the Aryan broker existing in his hundreds,

he is not invariably a trustworthy person. As an instance, it may be observed that should he number amongst his clients a verdant plunger he will palm off on him poor stocks and will exact brokerage at the rate of a rupee a share, though the maximum he is supposed to charge is four annas (fourpence). Consequently the plum-coloured brother of the pencil and note-book is at times in somewhat bad odour, and is shunned by the plunging element. The white man is the gainer; for the latter's brokerage is *fixed* at a rupee, and, whatever may be his personal desires, he knows it would not pay him to "sell" his clients. And therein lies the difference between the English and native broker: the former thinks of the future, the latter merely of the moment.

The Calcutta share market deals with an exceedingly varied selection of stocks. Jute and cotton, as well as paper mill shares, engage the investor's attention, whilst Indian colliery companies, and the Darjheeling, Duars, and Assam tea garden shares are continually in his mind. The cotton and jute press shares are constantly in demand, and the local railway stocks have their supporters. Some years ago Indian gold mine shares were in considerable request; nowadays the mere mention of them provokes ribald and unseemly mirth.

From April till December the Calcutta climate is somewhat similar to that which, according to the clergy, appertains to the future state of those who enjoy themselves whilst inhabiting this mundane sphere. Consequently the Anglo-Indian broker—for eight months in the year—wears the thinnest possible garments, and divests himself of his waistcoat—a wise precaution. But in spite of this concession to comfort, he is always in a lamentable state of perspiration, and, until the "cold weather" is well under way, loses flesh daily. Indeed, so eminently detestable is the heat that many a man of finance on leaving Calcutta would not be tempted by untold gold to return.

Capital Accounts.

By G. F. HOLLINS, F.I.A.N.Z.

A PAPER read before members of the Wellington Accountant Students' Society.

Mr. Chairman and gentlemen, the subject upon which I have undertaken to make a few remarks is that of Capital Accounts. As the object of this Society is the consideration of the subjects comprised in the examination of the Incorporated Institute of Accountants of New Zealand, I propose to discuss as far as practicable the treatment of
 1 as required by probable and possible examination

questions. In his presidential address our esteemed President dealt fully with the different branches of accounting, and I would now like to direct your attention to the actual form of the entries and Ledger Accounts representing the capital of the various classes of undertaking, considering them in the following order:—

- (1) Individuals or Sole Traders.
- (2) Partnerships.
- (3) Companies.
- (4) Trusts.

We must first consider what is meant by the term "capital." For the first class, the sole traders, the definition that "capital is the excess of assets over liabilities" will suffice, leaving the more abstruse points for later consideration.

Now, in opening the books of an individual about to commence business we have one of the very simplest operations on the Capital Account. Obviously all that is necessary is to schedule the assets with which the individual is starting, and make a Journal entry debiting the various assets and crediting the total to Capital Account, there being, let us suppose, no liabilities. The Journal entries might be put in this form:—

Cash	Dr.	£500
Premises	..	750
Goods	..	400
To Capital Account ..	Cr.	£1,650

If there were liabilities, say, Sundry Creditors, £300, a further Journal entry would be required—

Capital	Dr.	£300
To Sundry Creditors ..	..	£300

Or the whole might be combined in one compound entry, thus—

Cash	Dr.	£500
Premises	..	750
Goods	..	400
To Sundry Creditors ..	Cr.	£300
„ Capital Account ..	..	1,350

The resulting Capital Account in the Ledger in the first case would be credited with Sundries, £1,650, and debited with £300, and in the second credited with the difference only, £1,350.

After the business had been carried on for, say, twelve months, the accounts necessary to form the Trading Account would be collected, likewise those necessary to the Profit and Loss Account, the balance of the latter account being the net profit or loss for the year, being then transferred to Capital Account: if, as we will suppose in this case, a profit, it will go on the credit side. The total withdrawals for the year having been transferred to the debit of Capital Account, the balance will be found to be just the amount necessary to complete the Balance Sheet.

The method of dealing with any increase or decrease of

capital owing to realisation will be dealt with under Part 2 (Partnership), as the principles are the same in each case.

Partnership.

In opening the accounts for a partnership, we proceed on much the same lines. Each of the partners would be credited with the total of the assets he brings in at the value agreed on between them; the appropriate accounts being debited for the particular assets. Where, however, the assets brought in are already the joint property of two or more partners, the simplest way is to debit the accounts representing assets, and credit the partners with the amounts respectively belonging to them, something in the following form:—

Stock-in-Trade	Dr.	£3,500
Book Debts	..	2,000
Bills Receivable	..	500
To A Capital Account ..	Cr.	£3,000
„ B „ „ ..	..	2,000
„ C „ „ ..	..	1,000

This would be necessary, for instance, in the case of the amalgamation of two or more firms, a separate entry being made for each set of partners coming in.

The Profit and Loss Account of a partnership will not materially differ from that of a sole trader, excepting where the Capital Accounts are affected. You are all doubtless aware that partnership is legally defined as "The relation subsisting between persons carrying on business in common with a view to profit." The idea of profit is the fundamental idea, and partnership being a matter of agreement, after the profit (or loss, as the case may be) has been ascertained by the collection of the Nominal Accounts into the ordinary Profit and Loss Account, it becomes necessary to apportion the result among the partners. Where the partnership agreement is stated in definite terms this would usually be a simple matter. But care must be taken on certain points where the agreement is not stated. If interest is to be allowed on capital, debit Profit and Loss and credit each partner's Capital Account with the amount due. If no agreement, remember that the Partnership Act forbids interest on capital unless agreed upon. Then transfer the net result to the respective Capital Accounts in the agreed proportions. If there is no agreement respecting profits, remember that they are shared equally; if no agreement respecting losses, they are borne by the partners in the proportion in which they were to share profits. Any partner making an advance to the firm beyond his capital is entitled to interest at 5 per cent. thereon before ascertaining the net profit. In such a case debit Profit and Loss and credit the partner.

Each partner's account having been credited with the interest and net profit, the amount drawn in anticipation of profit should be transferred to the debit and the balance

brought down for the next period. A typical Capital Account is somewhat as follows:—

1900 Dec. 31	To Drawings and Interest ..	£ 230	1900 Jan. 1	By Cash ..	£ 1,000
„	„ Balance ..	1,070	Dec. 31	„ Interest ..	50
			„	„ Net Profit ..	250
		<u>£1,300</u>			<u>£1,300</u>

It is better, in my opinion, to credit the profit direct to Capital and transfer the total Drawings Account also, rather than to credit the profits to Drawings Account and only transfer the balance of the latter account to Capital, for the reason that any dispute respecting Partnership Accounts would most probably centre on the question of Capital, and therefore if each partner is credited in his account with his interest and profit, and charged with his cash withdrawals, the movements of capital may be readily seen.

Goodwill.

If a trader takes another into partnership, the latter contributing towards the goodwill, the estimated value of goodwill should be debited to Goodwill Account and credited to the original partner. The cash then paid in by the new partner would be credited direct to his Capital Account. If it is not desired to have a Goodwill Account the proportion of cash which is contributed by the new partner on account of goodwill would be credited direct to the old partner's Capital Account. If on a dissolution a retiring partner is to be paid for goodwill, debit Goodwill Account and credit the retiring partner with the amount, but if it is so desired the amount may be charged to the remaining partners in the agreed proportions without setting up a Goodwill Account.

Realisation.

In cases of dissolution, where the assets are to be realised in order to pay out the partners, the following procedure will be found to meet the usual requirements. Transfer the book value of the assets to the debit of a Realisation Account, and the liabilities to the credit of the same account, thus closing all the accounts showing assets or liabilities. Then from the Cash Book credit the Realisation Account with the actual proceeds of realisation, and debit it with the actual amounts paid in discharge of liabilities. When the winding-up is complete, the balance of the Realisation Account will be the profit or loss on realisation, and should be transferred to the Capital Accounts in the proportion in which the partners share profits or losses. The assets of a partnership are to be applied in the following order:—

- (1) In paying creditors.
- (2) In paying rateably partners' loans in advance of capital.
- (3) In paying capital rateably between the partners.
- (4) Any surplus to be divided as profits are divisible.

By allocating the profit or loss before dividing the capital Clauses 3 and 4 are merged, and if you work out one or two examples of realisation in this way you will find that where there has been a profit the resulting balance in the Cash Account is exactly sufficient to pay out the loans and capital. Where there has been only a small loss the result will probably be the same, but if the loss has been heavy it may be found that one or more partners' Capital Accounts are in debit. In such a case the partner, if he has no Loan Account, will be required to pay in the amount to his debit, in order that the others may receive the amounts they are still in credit, but if he had advanced money beyond his capital the loss of capital can be deducted when the loan is repaid. In other words, the debit balance of the Capital Account can be transferred to the Loan Account and the net balance paid out.

In the event of the death of a partner the amount of capital to his credit in the partnership books will be payable to his representatives, plus his share of profit for the broken period, and also his share of the goodwill, if not previously taken into account.

In bankruptcy, the adjudication of the firm operates as adjudication of each partner's estate. On realisation if a surplus results in a separate estate it is transferred to the joint estate (if required), and if there is a surplus in the joint estate it is transferred to the separate estates in the proportion in which the partners were entitled to participate in the joint estate.

Companies.

We come now to the third division of our subject, that of Companies, and it is certainly more difficult than the two preceding sections, as the operations of companies with respect to their capital are more restricted by law than is the case with sole traders or partners. It will here be useful to recall some of the chief differences between partnerships and companies. While a public company is an enlarged form of partnership, they differ materially. Partnership is founded on agreement, every partner in the absence of special limitations having the right to take part in the conduct of the business and to inspect the books. No new partner may be admitted without the unanimous consent of all partners, and each partner is an agent for all the others in matters of the partnership business. But in a joint-stock company, agreement is not necessarily a factor in its inception, for many of the shareholders may be absolutely unknown to each other. The power to conduct the business is relegated to directors, and the ordinary shareholder has no right to inspect the books or any voice in the acceptance of new shareholders, nor is he able to bind the company without special authority as an agent. And, further, in the case of limited liability companies the principle of limited liability is a vital distinction. These considerations must be borne in mind

when framing the accounts of companies, and the Capital Accounts do not necessarily represent the excess of assets over liabilities. The true capital is always that, but it is not stated in that way. The "capital" of a company may mean the registered capital, the subscribed capital, or the paid-up capital—the term being used generally to mean the share capital in some form or other.

To open the accounts of a company, the following entries following the English models should be made:—

Nominal Capital, 13,000 Shares of £5 each equals £65,000. 7,000 subscribed; 3,000 Shares to Vendor fully paid.

Application Account	..	Dr.	7,000	
To Share Capital	..	Cr.		7,000
For 20s. per Share on application on 7,000 Shares.				
Allotment Account	..	..	7,000	
To Share Capital	..	..		7,000
For 20s. per Share on Allotment, &c.				
First Call	..	..	10,500	
To Share Capital	..	..		10,500
For 30s. per Share on 7,000.				

The details will be fully shown in the Application and Allotment Sheets and Share Ledger, the above entries being really a summary for posting into the General Ledger. The cash will come in through the Cash Book, and in addition to being posted in detail to the credit of the individual shareholders will be posted in total to credit of Application, Allotment, or Calls Account, as the case may be.

If there is no more than one class of shares, separate sets of entries will be necessary for each class, or at any rate usually desirable, and also for debentures or other form of borrowed capital.

If the company being formed is taking over a business, the purchase-price is an expenditure of capital. Appropriate accounts should be debited for the assets taken over at the agreed price, and the vendor credited with the total. If the purchase-price for a going concern is more than the value of the assets taken separately, the difference will be goodwill. Example—

Purchase, £25,000		Assets, £20,000
Freehold	 Dr.	5,000
Stock	.. ..	7,500
Plant	.. ..	2,000
Book Debts	.. ..	5,500
Goodwill	.. ..	5,000
To Vendors	.. ..	25,000

If the vendor takes shares in part payment, debit him and credit Share Capital Account, also debit him with cash payments. Example—

Vendor	 Dr.	£25,000
To Share Capital Account	Cr.	£15,000
„ Cash..	..	10,000

It will be noted that the entries given do not introduce into the financial books the amount of the nominal or registered capital, and consequently that information, and likewise the amount unsubscribed and uncalled, must be sought for outside the general balance of the books. The system largely used in the Colonies, which we may call the Colonial method, introduces all this information. The opening entries would therefore be in the Colonial method as follows:—

Unsubscribed Capital ..	Dr.	£65,000	
To Nominal Capital ..	Cr.		£65,000
13,000 Shares at £5 each.			
Uncalled Capital ..	Dr.	35,000	
To Unsubscribed Capital ..	Cr.		35,000
7,000 Shares subscribed and allotted.			
Applications Account ..		7,000	
Allotment Account ..		7,000	
To Uncalled Capital ..			14,000
For 20s. each on 7,000 Shares on application and allotment.			
First Call ..		10,500	
To Uncalled Capital ..			10,500
For 30s. on 7,000 Shares.			

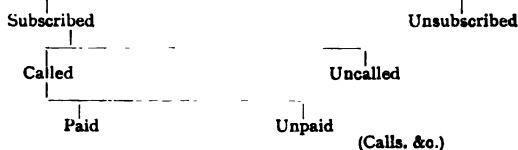
and so on for subsequent calls.

These entries, you will perceive, proceed in definite steps. First, the whole of the registered capital is considered as being unsubscribed, if only for a moment of time. As a matter of fact the registered or authorised capital is never wholly unsubscribed, because the signatories to the memorandum must state the number of shares each takes, and this has to be done before registration. Secondly, when shares are allotted the capital represented by the shares ceases to be unsubscribed, and is designated as uncalled. Thirdly, the appropriate accounts are debited for application, allotment, and call moneys, and the amounts credited to uncalled capital. If a company has a debit balance in a Call Account that debit balance represents the called-up capital still remaining unpaid; a debit balance in the Uncalled Capital Account represents the uncalled portion on shares allotted, and a debit balance in unsubscribed Capital Account shows the portion of the company's nominal capital still unsubscribed.

If the whole of the share capital is allotted and fully paid up these various accounts cancel each other until there remains only one account with a credit balance, showing nominal capital, and cash (or other assets) debit balances, showing the form in which the capital exists.

In this system therefore the nominal capital is divided into subscribed and unsubscribed, the subscribed into called and uncalled, the called into paid and unpaid. The following form shows the analysis:—

NOMINAL CAPITAL.



Accounts will be raised for nominal, unsubscribed, and uncalled capital, and the various divisions of unpaid capital as application, allotment, and calls.

Supposing the Cash Book of a company with accounts opened on the Colonial method showed the following receipts and payments:—

Receipts.			Payments.		
To Application ..	£	7,000	By Vendors ..	£	10,000
• Allotment ..	7,000		• Preliminary Expenses ..	1,000	
• 1st Call ..	10,000		• Balance ..	13,000	
	<u>£24,000</u>			<u>£24,000</u>	

Taking the other entries as already given, the Trial Balance would come out as follows:—

Nominal Capital ..	£65,000
Unsubscribed Capital ..	£15,000
Uncalled Capital ..	10,500
First Call (arrears) ..	500
Preliminary Expenses ..	1,000
Cash ..	13,000
Assets (see previous entry, including Goodwill) ..	25,000
	<u>£65,000</u>
	<u>£65,000</u>

Set out in Balance Sheet form the accounts would appear as follows:—

Liabilities.		Assets.	
Nominal Capital, 13,000 Shares of £5 each ..	£65,000	Sundry Assets as purchased, including Goodwill ..	25,000
Less—		Preliminary Expenses ..	1,000
3,000 Unsubscribed at £5 ..	£15,000	Cash ..	13,000
Uncalled on 7,000 Shares at 30s. ..	10,500		
Arrears of Calls ..	500		
	<u>26,000</u>		
Capital paid up ..	<u>£39,000</u>		<u>£39,000</u>

By the English method the nominal capital would simply be shown as a memorandum at the beginning of the statement of capital and ruled off. Then would be shown the number of shares issued at so much per share called, and the amount of arrears deducted, leaving the net capital paid up. The English plan has the merit of simplicity, but it is not necessary for me to express a preference for either; I explain the difference because it is quite possible that questions may be set which cannot be fully answered from a knowledge of one system only.

In this hypothetical company we will assume that a profit has been made on its operations. The question of what is profit is too large for discussion now, but if in the final Balance Sheet the value of the assets exceeds the amount of the liabilities added to the share capital, paid up and reserve (if any), the difference will be profit and shown as a credit balance in the Profit and Loss Account. After the dividends have been paid the balance of profit still remaining is carried forward from year to year, and cannot be added to the Capital Accounts as in a partnership. It is apparent, therefore, that a profit cannot be said with certainty to have been made unless the assets and liabilities as shown on the Balance Sheet are correctly valued. This is the basis of what is called the single-account system, as contrasted with the double-account system. I may here be pardoned for cautioning the younger students against confusing the single and double account systems of accounting with single and double entry bookkeeping, because they are distinctive matters.

Reserves.

The law allows the whole profit to be distributed as dividends; in fact, more than the true profit, for it is not obligatory on a company to reinstate lost capital out of profits, or to provide for shrinkage in value or wastings of assets, so long as they can pay outside creditors. Prosperous companies, however, usually retain some of their profits undivided, either to provide against contingencies or to provide themselves with funds to meet certain future payments. Where a profit has really been made, setting aside a portion of it creates a real reserve. A reserve can only be created out of profits, and can only continue intact until a loss occurs. But if a reserve on one side of the Balance Sheet is represented on the other side by an asset having no real value, then the reserve is really reduced by the amount at which the fictitious asset was stated, and if the fictitious asset is stated at a greater sum than the reserve, then not only is the latter entirely swallowed up, but part of the share capital is also lost.

Sinking Fund.

Take the case of a company having liability to debenture-holders, say £50,000, and to avoid lengthy calculations we will suppose the debentures to be redeemable in two years. A sinking fund is desired. The following entries will show the operation, it being assumed that the investments can be made at the rate of interest, 5 per cent. taken, as that does not affect the point we are considering:—

At the end of the first year the first instalment is set aside.

Profit and Loss (Appropriation Account) *Dr.* £24,390 4 10
 To Sinking Fund *Cr.* £24,390 4 10

Investment Account *Dr.* 24,390 4 10
 To Cash *.. Cr.* 24,390 4 10

At the end of the second year there is the second instalment to be added to the sinking fund and the interest earned on the first instalment.

Investment Account *Dr.* £1,219 10 4
 To Sinking Fund *Cr.* £1,219 10 4

For interest earned.

Profit and Loss *.. Dr.* 24,390 4 10
 To Sinking Fund *Cr.* 24,390 4 10

2nd instalment.

Note.—The last instalment in any number of years would not be invested.

Then the investment is called in.

Cash *.. .. Dr.* £25,609 15 2
 To Investment Account *.. Cr.* £25,609 15 2

Debenture-holders are paid:—

Debenture Holders' Account *Dr.* £50,000
 To Cash *.. .. Cr.* £50,000

The Ledger Accounts would show as under:—

DEBENTURES.

1901	£	1901	£
Jan. 3 To Cash (7)	50,000	Jan. 1 By 50 £1,000 5%	50,000
	<u>£50,000</u>	Debentures at par	<u>£50,000</u>

SINKING FUND.

1901	£	s	d
Dec. 31 By Profit and Loss A/c			
(a)	24,390	4	10
" " Interest (4)	1,219	10	4
1902			
Dec. 31 By Profit and Loss A/c			
(5)	24,390	4	10
	<u>£50,000</u>	0	0

INVESTMENT.

1901	£	s	d	1902	£	s	d
Dec. 31 To Cash (3)	24,390	4	10	Dec. 31 By Cash (6)	25,609	15	2
" " Interest (4)	1,219	10	4				
	<u>£25,609</u>	15	2		<u>£25,609</u>	15	2

PROFIT AND LOSS.

1901	£	s	d	1901	£	s	d
Dec. 31 To Sinking Fund (2)	24,390	4	10	Dec. 31 By Balance (1)	48,780	9	8
1902							
Dec. 31 " Sinking Fund (5)	24,390	4	10				
	<u>£48,780</u>	9	8		<u>£48,780</u>	9	8

CASH.

1901	£	s	d	1902	£	s	d
Dec. 31 To Balance (1)	48,780	9	8	Dec. 31 By Investment (3)	24,390	4	10
1902				" " Debenture holders (7)	50,000	0	0
Dec. 31 Investment Account (5)	25,609	15	2				
	<u>£74,390</u>	<u>4</u>	<u>10</u>		<u>£74,390</u>	<u>4</u>	<u>10</u>

The sinking fund is left with its credit balance, and may be transferred to Reserve Account. Its nature is not changed by the mere fact of the debentures being paid off—it has been a reserve all along—that is, an accumulation out of profits.

Borrowed Capital.

When capital is borrowed by means of debentures, the debenture-holders should be debited and the Debentures Account credited. As the money is received it will be credited to the Debenture-holders' Account by way of the Cash Book, ultimately closing it if the issue is at par. Where issued at a discount the entry should be, say:—

Debenture-holders	£95,000
Cost of issues of Debentures (discount) ..	5,000
To Debentures	£100,000

The Cost of Issue Account should also be debited with other expenses of issue and the whole written off in instalments. If debentures are issued at par and redeemable at a premium, an account may be debited with the premium payable on redemption and gradually written off, or the entries may be put through at the face value and the premium gradually accumulated by means of a sinking fund.

Fixed and floating capital (or fixed and floating assets) is a classification sometimes made, the capital represented by assets by means of which the business is carried on being termed fixed capital (or assets) in distinction to the things traded in, which are called floating assets. It is in the treatment of the accounts representing fixed capital that the double-account system is used, but I am afraid that time forbids further illustration.

Reduction of Capital.

As a matter of absolute fact, the capital of a company is reduced when it experiences a loss, so that its assets are no longer adequate to represent its capital, but the effect may not be shown in the books, without the previous sanction of the Supreme Court. What we wish to know as students is how to make the adjustment when the sanction has been secured. To illustrate. The Western District Pastoral Company, Lim., showed the following balances of Capital Accounts:—

	Dr.	Cr.
	£ s d	£ s d
Authorised Capital—		
Fully Subscribed 70,000 Shares		
at £1		70,000 0 0
Uncalled Capital at 8s. 6d.—		
On 57,055 Shares		
current .. £24,248 7 6		
On 2,945 Shares		
forfeited .. 1,251 12 6		
		25,500 0 0
Calls in Arrear—		
On Shares current 1,747 3 6		
On Shares forfeited .. 927 6 8		
		2,674 10 2
Capital paid up in money		<u>28,174 10 2</u>
		<u>£41,825 9 10</u>

In addition to shares already forfeited, it was resolved to forfeit 7,055 shares owing calls of 1s. 6d. per share; to cancel the whole of the forfeited shares, passing the cancelled capital to the credit of Profit and Loss Account to wipe off the debit balance, which was £4,313 13s. 10d. Apparently no entries have been made respecting the forfeited shares, except to allocate the amounts uncalled and in arrears as between the shares current and those forfeited.

The following Journal entry would give effect to the resolution:—

	£	s	d	£	s	d
Authorised Capital .. Dr.	10,000	0	0			
To Uncalled Capital (at 8/6) Cr.				4,250	0	0
Calls Account .. £927 6 8						
Plus 7,055 at 1/6 .. 529 2 6						
						1,456 9 2
Profit and Loss						<u>4,293 10 10</u>
				<u>£10,000</u>	<u>0 0</u>	<u>£10,000 0 0</u>

This leaves a debit balance of £20 3s. in the Profit and Loss Account. If the amount gained by reducing capital is more than sufficient to wipe off the profit and loss debit it is better to use an intermediate account, and only transfer the necessary amount to Profit and Loss Account, and the balance to Reserve, because it is not allowable to reduce capital so as to put the Profit and Loss Account in credit, and thus make it possible to pay a dividend out of capital.

In a simple case of forfeited shares without reduction of capital the English method is to debit Subscribed Capital Account for the amount previously credited in respect of the shares forfeited, crediting the Calls Account with the arrears and Forfeited Shares Account with the sum paid.

Example :—1,000 Shares of £1 nominal value ; 15s. called, 10s. paid.

Subscribed Capital	£750
To Calls Account	£250
Forfeited Shares	500
1,000 Shares forfeited for non-payment of Calls amounting to 5s.	

Under the Colonial method the entry would be :—

Unsubscribed Capital	£1,000
To Uncalled	£250
Calls	250
Forfeited Shares	500

Amalgamations.

In the case of amalgamation in the selling company, transfer all the assets to a Realisation Account, debit the purchasing company and credit the Realisation Account with the purchase-price. If the purchasing company pays the liabilities credit it with sums paid and debit creditors. The purchasing company will then gradually hand over a certain sum in cash and a number of shares for distribution among the old shareholders, the total of same going to credit of their account to close it, and the distribution among the shareholders of the cash and shares will be debited to Capital Account. As the selling company is being liquidated, much the same principles apply in other cases of liquidation, with the distinction that when selling to another company (an amalgamation) there would likely be a gain in the process, whereas in winding up (or reconstruction) there is more probability of loss. The gain or loss by realisation having been transferred to capital the distribution of the cash (and shares in new company, if any) will close the Capital Accounts. Before a fair distribution of capital can be made it is first necessary to call all shares of the same class up to the same amount.

Trustees.

In considering the accounts of trustees we must note the distinction that a trustee has the legal title to property without the beneficial interest therein. Firms or companies may, saving the rights of creditors and individual shareholders, and speaking broadly, do what they wish with their own, but the trustee must look to the trust instrument for his directions, from which he may not depart without sanction of the Court, and the Court gives directions in cases of omission or uncertainty. We are principally concerned with the accounts of trusts arising under wills. It is obvious that everything a testator dies possessed of or entitled to, including moneys accruing but not due, forms the corpus or capital of the estate. The most generally approved method in opening the accounts is to make the statement for probate the basis. Accounts should be debited with the various assets as valued for probate, crediting the whole to capital. The liabilities

shown should be credited to separate accounts and the total debited to capital. The balance of Capital Account will then be the net capital of the estate on which duty has to be paid.

The Capital Account is to be charged with the reasonable funeral expenses according to the deceased's station in life, and with the probate duty and costs of proving the will, and generally carrying out the testator's wishes, but exclusive of the executors' remuneration, unless specially bequeathed or allowed by the Court. Capital will also be debited with legacies, and where bequeathed free of duty the legacy duty must also come out of capital. If in the process of realising the estate and converting it into cash a loss results, such loss, in the absence of negligence or misfeasance on the part of the executor, would be charged to capital, and conversely any surplus over probate values would be credited to capital. After the estate has been realised and the debts and legacies paid, the residue, if specifically bequeathed, would be paid out and the Capital Account closed thereby, but if held on certain trusts each trust fund should be credited with its portion of capital, the successive debits to capital closing the latter account.

In all questions on Executors' and Trustees' Accounts it is important to distinguish between capital and income, and each transaction should be scrutinised to see if it affects the capital, and, if it does, it must be dealt with according as to whether or not the amount has been allowed for in adjustments already made.

Defalcations: Their Prevention and Detection.

By W. C. HARRINGTON.

Prize Essay read before members of the Wellington Accountant Students' Society.

SCIENTIFIC accounting is the hub of the universe of commerce, trade, and finance; the pivot, as it were, of the wheel of fortune. The point, if truly centred, about which the business revolves with the velocity and ease of a spinning top. Over these trade movements and springs of action of this dangerously vast and complex machinery of exchange of interests, it is the mission of accountants to guard against fraud and maintain order. To be able to do this properly one must possess a good practical experience in almost every department of bookkeeping, together with some useful knowledge of the modern conditions of technology. It is well known, and clearly understood, by those connected with accounts that fraud varies both in its origin and in the means by which it has been

effected, accordingly no rules that will have universal application can be framed or enunciated; the best that can be done is to suggest such safeguard as, if systematically exercised, will at least make the perpetration of fraud a matter of difficulty and possibly prevent it entirely. This leads one first to consider the most successful qualities in the conduct of any business. Where they exist the possibilities of fraud are greatly curtailed; where they are absent, the chances of fraud are not only great, but the effect of a completed audit is spoiled, thus:—

- (a) Capacity for organisation and administration.
- (b) A reliable and comprehensive system of accounts.
- (c) A familiar acquaintance with details as well as ascertained results.
- (d) Watchfulness on the part of the heads over each other and their subordinates.

Fraud usually commences in matters of detail which are not considered worth considering, that would, no doubt, be given in cash sales, cash receipts and payments on Ledger Accounts, and theft or inflation of stock. As each of these items stands out alone as a subject upon which an essay could easily be written it is my intention to deal with them fully, in order, it is hoped, to make the paper of some little practical use in carrying out what is about to be discussed and in opening up argument in connection therewith. Being limited to space in which to write upon an unfathomable subject, covering as it does the whole movements of an auditor and investigator, as well as the field of internal check of a bookkeeper, one can only pick upon and expose (as far as his experience allows him) the most salient items of fraud in accounts and their possible prevention, and in rendering these items attractive one must crystallise his observations into a few bright and telling words. Before getting well under way with this essay one cannot do better than to make it plain that a proper system of internal check should be promoted, such as—

- (1) Where branches are kept a reconciliation of stock on hand at each month end should be made at the head office.
- (2) Banking all receipts daily.
- (3) Making payments for amounts over one pound by cheque.
- (4) Keeping petty cash on the Imprest System; receipts should be procured and preserved for all disbursements.
- (5) Filing for reference, and numbering, all receipts, docket advice notes, and statements.
- (6) Instituting Self-balancing Ledgers.
- (7) Where practicable and advantageous introduce the tabular Day Book, Invoice Book, and Ledger.
- (8) Have a good classification of Personal and Nominal Accounts.
- (9) Where possible have a good record of stock-in-trade.

The auditor, on the other hand, should make such notes of ambiguities discovered during the progress of his audit in the accounts which he thinks require further consideration and explanation from those in charge of the books.

The first active work of an auditor would be counting the cash in hand and seeing how it tallies with the amount which is shown in the Cash Book. Several points arise in balancing cash; besides the actual cash the balance may be made up of I O U's, cheques, P.O.O.'s, and there may be vouchers for expenses not entered, which should be verified by other means than by a formal receipt. Cheques, P.O.O.'s, and postal notes should be immediately sent out for collection or paid into the bank. Steps should be taken to prove the value of I O U's; if they are advances upon wages it will be necessary for the auditor to see they are redeemed on first pay day. Still, at all times I O U's should be discouraged. The Cash Account balance having been verified, the next step will be in checking additions and carry forwards, also see that all postings have been completed. Having ascertained the accuracy so far, the auditor's diligent and conscientious attention will be fully required in vouching receipts and payments. Receipts should be vouched by the counterfoil Receipt Books, Number, Date, Amount, and Name being compared. Spoiled or void receipts should be retained and cancelled. In a good many cases the receipts cannot be vouched owing to the absence of counterfoil receipts; having nothing to corroborate the entries on the debit side of the Cash Book, the auditor must satisfy his uneasy mind by other means, as to any impression of leakage which he thinks might arise owing to unsupported cash receipts. He is, therefore, required to possess the detective ingenuity of Sherlock Holmes or the morbid curiosity of a Paul Pry in gathering together sufficient evidence to prove that which remains in darkness.

A small amount of proof is obtained by extracting trade debtors who are usually prompt payers but at the time of audit are in arrear. The list of debtors extracted should be given to the bookkeeper with instructions to collect and report the result. The auditor, by suggesting a change in the collector at this stage, would be gaining a better position of attack. It is possible, by comparing the date of the receipt with the date of lodgment at the bank as stated in the Pass Book, to see if it had been the custom to pay cheques in on the day of receipt, or to retain them some days. Retention of money in this way has, in the past, covered serious acts of fraud, almost to an extent that business people were beginning to think that auditing was an unnecessary expense. A continuous audit kept well up to date would have prevented this. Further points arise in cash sales and discounts. Scrutinising salesmen's duplicates and desk cashiers' checks, also sale analysis, will

provide a lot of good, solid, necessary work. A comparison of cash sales for one period with that of another should be done and the chances of leakage estimated. It is my intention to give this very important item of "Cash Sales" the consideration it deserves; being, as it is, so naked, so unconfirmed, and so unsupported by evidence, too much cannot be said in favour of introducing some means whereby irregularities may be prevented. As circumstances alter cases one cannot do better than to take, cut up, and expose Cash Sales in some particular business, such as (a) "Miscellaneous Sales" in an auctioneering business, and (b) "Newspaper Sales" in a newspaper office. Under heading (a) comprise those sales which certain auctioneers hold from time to time of chattels belonging to different owners, more especially unsold goods carried over and disposed of privately. A good prevention is to write up or get printed a catalogue of the several lots (similar to a schedule of stock-in-trade) with columns ruled for Lot No., Name of Purchaser, Sold Price, Voucher No., and Cash Received. As each lot is "knocked down" it provides material for filling up the vacant columns—such as Purchaser, Price, Voucher No.; Cash Paid and Voucher No. are got from the counterfoil Receipt Book. As the various lots are cleared and paid for, the auction clerk should enter on the catalogue voucher number and cash received respectively, so that a glance will show one what lots are paid for and which still remain unsold. The Counterfoil Receipt Book is accompanied at the end with a summary or analysis of cash, and number of lots. At the end of each day the total amount of cash in the summary should be pencilled in and the balance in hand handed over to the cashier for entry in the General Cash Book. This he will enter to the credit of Miscellaneous Auction Sale No. 1, &c. When all the lots have been sold, as according to the catalogue, the summary total should agree with total cash received as shown by catalogue, and as a double check the total of the Catalogue Summary and Miscellaneous Auction Sale Account should be in unison.

Auctioneers generally do not confine themselves to the one specific class of business, but also add land and estate agency work to their undertaking. Where this is the case a point of special importance occurs in examining the Cash Accounts. Rent collecting on account of clients is sometimes small and insignificant; when this is so the firm's own Cash Book will suffice. But where receipts emanating from rent producing property exceed a fair amount it is more convenient to have such records of cash made in a separate book, so that it will be only necessary to carry totals into the firm's books. It is here a matter of great importance when examining the "Receipts and Payments" for the auditor to scrutinise both books

together, otherwise a serious gap is left through which defalcations of any amount may find their way. For instance, the same actual coin may march from draw to draw, or party to party, as often as it suits the purpose of the cashier in hiding any deficiency of cash in hand. Cash Sales in (b) "A Newspaper Business" has for many years been a troublesome item of revenue to protect. Petty pilfering might be easily manipulated by the dishonest employee. The only practicable system of check over paper sales where first editions, second editions, extras, and back dates are sold is the "Counter Sales Book," ruled with columns for (1) Date, (2) Number received, (3) Free Subscribers, (4) Number sold, and (5) Amount. The "Number received" can be checked by the publisher's returns; the distribution and the receipts of cash for the remaining columns can be checked by comparing the total free papers with the free list, and the subscribers with the Subscribers' Ledger; total cash with General Cash Book. Sales for cash will be made up of present day papers and back dates. As papers are distributed the number in the Total Received column will slowly diminish; when replenished register it by adding the number received to this reducing number. Sales of back dates do not affect the reducing number, it remains the same. In checking this book one must take care to see that the number of papers remaining on hand after the day's sales correspond with the number in the Counter Sales Book, and that sales for Monday compare favourably with Monday in the previous week, and that the totals of columns 3 and 4 plus number of papers on hand, as in column No. 2, equals number received plus back dates.

Cash Discounts.—Where Discount columns are used in the Cash Book any exceptional amounts should be inquired into. In most businesses there is a fixed and well understood rule, or trade custom, fixing the rate of discount according to credit taken or given, or, if a special percentage is arranged, there will probably be letters, or contract notes, specifying the rate. Discounts obtained should be verified when vouching payments—they are invariably marked on the vouchers; if not, it should be insisted upon, the percentage of total discounts to purchasers, and/or to sales, furnishing valuable evidence. Turning to payments, the auditor should in like manner obtain independent testimony of the accuracy of each entry. The Pass Book should be, as soon as practicable, completely called over with the Cash Book, and the balance in the book verified with that at the bank. All "payment receipts" should be checked as to date, name, amount, and discount, and compared with entries before cancellation. See that all cheques forming vouchers are endorsed. The auditor must always obtain some proof of payment, otherwise his examination would be worse than a farce.

Salaries, as a rule, can be properly vouched, and they constitute a fairly regular item, but a fluctuating wage list is hard to check. Fraud may result from individual wrongdoing, or it may result from conspiracy. Fraud may be found in a cashier simply adding a greater amount to his weekly Pay Sheet and pocketing the difference when cashing the cheque. There may be a conspiracy between cashier, pay clerk, and foreman by introducing dummies. Piece-workers' time and quantity may be falsified. Rates charged may be higher than usually paid. In preventing fraud of this nature the auditor should see that one cheque is drawn for the total wages after being added and checked by a different man to the one who compiled it. Wages should be paid by a Ledger-keeper in presence of each departmental foreman, if possible. All acceptances discharged as per Pass Book should be checked with the retired bill. This reminds me of the particular attention an auditor should give in reference to bills receivable as compared with the Balance Sheet; besides verifying bills receivable with bills on hand and bills discounted he should also inquire if the total represents true trade bills and not accommodation bills by which the payee is only temporarily accommodated.

Payments out of Principal and Payments out of Income.

—Receipts arising from principal as well as from income are important items appearing in an "Executor's" Cash Book. The investigator will be required to exercise care and good judgment in testing the accuracy of apportionments of cash on account of the different owners entitled thereto. The apportionment of dividends or interest payable half-yearly should be based upon the number of days in the particular half-year in which the dividend or interest arises, and not upon the number of days in the whole year, this will make a big difference when large sums have to be apportioned. Further, dividends and interest payable yearly and due half-yearly should be based upon the number of days for the whole year. For instance, when death occurs March 31st and interest on stock is due on 30th June principal would be 90-365 of yearly interest (and not 90-181 of half-yearly interest), the balance after subtracting the sum calculated from interim interest would be credited to income. Where the estate comprises many investments a classification should be made of them so as to facilitate checking in calling over. In the case of dealing with the management of a business carried on by an executor, the executor cannot charge for his work, no matter how the estate has benefited thereby except under special circumstances. Expenses by way of "Just Allowances" in preparing accounts are allowable, even though the executor be a partner. Notes should be made of items of any material importance which occur to the investigator during the execution of his duties, so that he may be well armed and properly safeguarded against those

troublesome people who are born or married into families, and who commence disturbances because they do not find so much money as they expected, or, perhaps, because the poor unfortunate trustee has offended them. Beware of putting hasty work in these accounts; the proper destination of each figure must be first determined.

Before proceeding to consider stock-in-trade generally, I would like to point out how defalcations have frequently arisen and remained undetected from the omission of the precaution to check the number of tickets on hand in a tramway company's office. The misappropriation is brought about by the settling-up clerk quietly issuing tickets here and there to different guards without accounting for them. A careful guard will always count his tickets before signing his sheet; others are dilatory, and others cannot find time to spare. However, it matters little whether a guard is careful or not in seeing he gets that which he signs for: if an unscrupulous clerk wants to gain the value of a block of tickets in hard cash it is not difficult for him to manipulate the figures on the "Guards' Return Sheet" when he knows the large store of tickets in hand are not properly controlled. Thus, you will readily see that unsold tickets on hand at the end of each financial year is an item of some consequence. This being so, the auditor would be contributing very greatly to the fraud of any dishonest clerk by allowing this very important item of check to pass untested. The aggregate number of tickets on hand of all sorts and kinds in 1d., 2d., 3d., 4d., &c., at stocktaking can be easily procured, and, when ascertained, should agree with the number resulting after adding purchases to number brought forward, less sales. Figures for ticket sales can be gathered from the "Guards' Returns Analysis" Sheet, and for ticket purchases from the printers' invoices. This can be done without much extra labour when auditing the General Cash Book. The statement of tickets on hand ascertained as above, besides checking the legitimacy of traffic receipts (in so much that the aggregate number of tickets sold during the period under balancing should correspond in value to the total amount of traffic receipts drawn from ticket sales for the same period), also gives records for statistical purposes.

Further, it is possible for the bookkeeper with a good system of check to arrive at the same result, and thus save the auditor from investigating into detail, by slowly and surely, month by month, building up for readiness the totals of the various tickets sold and purchased by means of a "Register." This book, besides preventing double shuffling with tickets, has another good feature, in that monthly balances of the various tickets on hand can be arrived at with simplicity, and thereby offering a valuable index to the quantity of tickets in stock, so that

others may be ordered when those on hand are approaching exhaustion. The following information showing how pages in the "Register" may be divided will, perhaps, be of some practical use:—(1) Date, (2) Invoice Reference, (3) From whom purchased, (4) Tickets on hand at commencement, (5) Purchases during the month, (6) Sales as per Guards' Analysis, (7) Tickets on hand. Columns 4, 5, 6, and 7 require subdividing into the various kinds of tickets handled.

Stock-in-Trade.—Taking stock and balancing it is one of the most important items to be considered in branch businesses, as it is one in which so much trust and confidence has to be put in the assistants; and it is principally for this reason that theft of stock, robbery of cash, receipts, and fictitious entries of expenses are likely to be met with. Misapplying cash is prevented to a great extent by the introduction of the latest "Cash Register" and Counter Duplicate Books as far as cash sales are concerned. To keep the transactions of branch shops well in hand a system of internal check must be instituted. This is in charging them with their purchases at the selling prices, and taking their stock on the same basis on account of the retail price being the only one reckoned with in dealing with this method of check. Goods will be sent to each branch from the head office warehouse—if they are stocked; if not, then direct from the manufacturer. Invoices are checked at the head office and priced at the selling prices, they are then given to the stock clerk in charge of the branches to write up in his Stock Book and forward. Invoices should be despatched with Advice Notes, so that the branch manager can check the goods and notify head office at once if there should be any shortages or overs.

The Stock Book and Delivery Book kept at head office are the most important books in connection with branches; and in order that each branch's stock may be separated a Stock Book for each is advisable. This is a great advantage to stocktakers who are always handling goods at their retail value, and who either forget, lose sight of, or are ignorant of the cost price. In the above-mentioned book will be entered on the debit side goods delivered at selling prices, and cash received on the credit side, this being the turnover for the week. The actual stock of each branch can be ascertained at the end of each week by adding goods delivered to previous balance and deducting the cash and book debts. These entries are all that is necessary for the purpose of balancing stock. The Stock Book ought to show at a glance the amount of stock on hand at each week end and at each branch. The aggregate stock can be "got at" with very little extra time, for the Trading Account and Balance Sheet the Stock Books will supply the figures at the retail prices, from which must be deducted book debts and the

percentage of profit made in charging stock to the branches. This percentage can be checked by comparing the estimated with the actual percentage of gross profit. As all goods are sold by the branches at what they are charged to them, the stocks should come out correct; if they do not, the reason why will have to be shown for the same. Shortages are most difficult matters to face in retail businesses, and when a large deficiency arises the best thing to do is to take stock over again at the earliest opportunity.

Further, it is obvious that the above method of control is a splendid one for an undertaking running branches in a manner above contemplated—the receipt and disposition of goods at the branches at the same prices. But what is to happen when branches indulge in holding periodical clearing sales and sell at a much lower rate? It means that the system of control, to be of any practical use, must be further developed, so that it will meet to some extent these complications. The Stock Book already mentioned is not to be taken as part of the system of double entry, but as a check on stock only. I will later on show how it can be interwoven. But first of all I must explain the development of the Stock Book as suggested above. The Stock Book will be debited with goods sent to the branch or branches, and as daily or weekly returns are received it will be credited with the totals. On an approaching "sale" the difference between the selling price and the further reduced price on all goods "marked down" as per the sale tickets attached thereto will also be credited in the Stock Book on the receipt of the branch's statement properly checked and signed. As soon as the duration of the sale has expired the goods must all be re-marked up to their original selling price. The original prices can easily be ascertained if goods are marked with a ticket bearing two prices—the old one ruled out and the new price written in. The difference between these two prices will in the aggregate be debited to branch or branches in the Stock Book; this amount is derived from the branch manager's statement which he forwards at end of sale. The Stock Book will now show entries on the debit side for goods sent out and an amount representing the difference between "reduced" and the "written up" prices. The credit side will show cash sales for daily or weekly turnovers, and an amount representing the difference between the "original selling" prices and the "reduced sale" prices. The result of these two columns should give the correct stock on hand valued at the selling prices. Where these prices represent cost plus 50 per cent. on, cost will represent the remainder, after taking 33 1/3 per cent. off selling prices. By a simple calculation the cost value of stock in hand at branches can be easily arrived at for the Balance Sheet. Secondly, a more scientific method of dealing with these branches is to bring the Stock Book

into the system of double entry by (a) debiting branch with goods at selling prices and crediting a Stock Account, viz., "Stock at Branch"; (b) on receipt of branches' daily or weekly returns debit cash and credit branch. The total sales for each month should be debited to "Stock at Branch" Account and credited to "Sales Account"; (c) at sale time, when the statement showing goods written down arrives, debit "Stock at Branch Account" and credit "Branch"; (d) at sale end goods written up as per statement should be debited Branch and credited to "Stock at Branch Account"; (e) Stock on hand as shown by Stock Book should correspond exactly with the "Branch Account" balance. The other accounting entries in the head office books do not enter into the system of control of stock at branches, therefore it is unnecessary for me to give them. Yet I would at this stage like to state that as branches are usually managed by men earning but small incomes, and who are much overworked, it seems that some system of check of this nature should be given a trial. In designing Stock Accounts the bookkeeper will do well to avail himself of whatever practical experience is possessed by the company's auditor. And the auditor should in turn secure the co-operation of the bookkeeper, unless he be fortunate enough to possess some practical knowledge of the particular class of business carried on. He, it is thought, would be the best authority as to the means to be employed in placing a defective system upon a solid basis. The omission of the precaution to adopt a good system of control over stock-in-trade would mean that the proprietors would be living in a fool's paradise, with the Balance Sheet perhaps showing a handsome profit, after paying and providing for all expenses for the period covered by the accounts, yet, really, if the truth was known, the capital expenditure in stock on hand would be partly, if not wholly, submerged by the excessive inflation due to unscrupulous heads either intentionally or ignorantly overstating same. Therefore too much attention cannot be paid to this item of floating capital, either by the bookkeeper or the auditor. If it is not inflated by the directors of a flagging company there is an extreme danger of the exact value being tampered with by one or other of the departmental managers, who are very eager to keep up gross profits of their particular charge in the anticipation of better things ahead. For a private trader to adopt this method of finance he would be gaining personal wealth by hampering and bleeding his business. For a joint-stock company to conduct business on these lines would be so haphazard, and so risky, that an immediate accident would be inevitable. Some auditors, as a means of escape, usually pin their faith and confidence to Lord Lindley's decision in *Re The Kingston Cotton Mills* appeal, which came before three eminent

Judges for inquiry. I think they would do well not to place too much reliance on the remarks of Lord Lindley in his decision, but share them with those of Justice Vaughan Williams, who decided the case on its first appearance in Court. He was, doubtless, greatly influenced in deciding it against the auditor by the evidence of an investigator who was appointed by the Board of Trade to make a thorough investigation extending over two years. The investigator's evidence went so far as to say that a careful examination of the accounts should have shown the percentage of gross profit disclosed by the Trading Account to be so abnormal as to reasonably call for inquiry. In conclusion, I might say that it has been my endeavour to pick out and illustrate as far as possible various points of fraud, all of which have, in some degree or other, a striking resemblance, and the means to be employed in preventing any likely chances of its occurrence, either by the bookkeeper in the early stages of its existence, by the introduction of an efficient system of internal check, or by the auditor who is called upon to conduct periodical audits, or by the investigator whose services are required to "ferret out" figures omitted, misplaced, or dilated.

Payment by a Banker of Fraudulently Altered Cheques.

It was decided by the House of Lords in *Scholfield v. Londesborough* (1896, A.C. 514) that the acceptor of a bill of exchange is not under a duty to take precautions against fraudulent alterations in the bill after acceptance, and that the mere existence of spaces between the words, which might possibly enable the apparent amount of the bill to be increased by the insertion of writing in the spaces, is not sufficient evidence of negligence on the acceptor's part to make him liable as having authorised the alterations. The case of cheques fraudulently altered by writing into them additional words, and the liability of a banker towards his customer, the drawer of the cheque, were discussed in the judgments of the Lords, principally with reference to *Young v. Grote* (1827, 4 Bing. 253); but it was not necessary to do more than distinguish the latter case, or to decide whether the rule laid down in *Scholfield v. Londesborough*, under the circumstances there disclosed, would apply to the case of a cheque as between banker and customer. It had been held in *Young v. Grote* that a banker who paid a cheque, fraudulently altered by writing into it additional words and figures, was not liable; but the Court there was bound by an arbitrator's

finding of negligence, and the case has never been regarded as satisfactory. The Judicial Committee of the Privy Council have now decided, in a case on appeal from the High Court of Australia, that the rule in *Scholfield v. Londesborough* does, under similar circumstances, apply to cheques on a banker. This decision, *Colonial Bank of Australasia v. Marshall* (*Times*, July 28th 1906), is of first-rate importance. The decision, it is submitted, would be acquiesced in by the House of Lords as in accordance with the principles laid down in *Scholfield v. Londesborough*, and the dicta there contained and observations made upon the case of *Young v. Grote*. Lord Macnaghten, too, was a member of the Judicial Committee which has decided *Colonial Bank of Australasia v. Marshall*, and one of the Lords who sat in *Scholfield v. Londesborough*.

The facts in the case before the Judicial Committee were these. Three persons, co-executors, kept a current account with the appellant bank in Melbourne, Victoria. One of these three, Myers, after getting cheques signed by his two co-executors, before signing them himself and presenting them for payment, fraudulently altered the cheques, so that a cheque (for instance) really drawn for £10 appeared, when presented, to be a cheque for £110. The alteration was possible by reason of sufficient space having been left, in writing the cheques, to allow of the additional words and figures being inserted without arousing suspicion, and the cheques so altered were paid by the bank. The respondents (plaintiffs in the action) were the two co-executors other than Myers. The forgeries coming to light, the bank claimed the right to debit the executors' account with the full amount of the forged cheques as paid, and the action was brought by the respondents against the bank and Myers to enforce repayment of the amounts debited over and above the original amounts of the cheques before these were altered. The defence set up was: "If the said cheques, or any of them, were fraudulently altered and increased in amount, such cheques were, and each of them was, drawn by the plaintiffs and the defendant Myers without reasonable care or precaution, and in a manner and form so negligent that they enabled and permitted the alterations and erasures, if any." The question was left to the jury whether the cheques were drawn negligently, and the jury found that they were, and gave a verdict for the defendant (appellant) bank. The Supreme Court of Victoria approved of the manner in which the jury had been directed, and refused to disturb the verdict (1904, 29 V.L.R. 804). *Young v. Grote* was followed, on the ground that it was still good law as to cheques, and had not been overruled by *Scholfield v. Londesborough*. From the judgment of the Supreme Court the plaintiffs (respondents) appealed to the High Court of Australia, with the result that the judgment of the Supreme Court was reversed, and the executors

held entitled to succeed against the bank, on the ground that *Young v. Grote* did not apply, and that the principle laid down in *Scholfield v. Londesborough* should, under the circumstances, govern the present case (1 Commonw. L.R. 632). This decision has now been affirmed by the Privy Council.

It is of the utmost importance that the commercial law of the different parts of the Empire should not vary unnecessarily. If the decision in *Colonial Bank of Australasia v. Marshall* were held not to be good law in England, a step would have been taken towards divergence between the United Kingdom and Australia in the law of banking and negotiable instruments which it might be difficult to retrace. The English Courts are not bound by the decisions of the Privy Council on Colonial appeals, nor are the Colonial Courts technically bound by even the decisions of the House of Lords. The decision of the Privy Council in the present case would only be followed in England on its merits, so to say. In the interests of Imperial commercial law, therefore, it is well to be able to feel some confidence that the House of Lords would acquiesce, if the question came before it, in the extension of the principle of *Scholfield v. Londesborough* to the relation of banker and customer.

The case of *Young v. Grote* was critically examined in the judgments of the Lords in *Scholfield v. Londesborough*, and although no fresh examination was made in the reported judgment of the Judicial Committee in the present case, yet this was done by the High Court of Australia. At p. 652 of the judgment of the High Court (1 Commonw. L.R. 632) the following passage occurs: "In *Scholfield's* case Lord Halsbury is reported to have said (p. 523) that 'the time had come when it would be desirable to examine how far the case of *Young v. Grote* ought to be quoted as an authority for anything. In our opinion it is an authority for this and no more—that the drawer of a cheque may, by his negligence in connection with drawing it, disentitle himself to complain that the banker has paid a larger sum upon it than the drawer intended.' This certainly seems to sum up fairly what may be gathered from the judgments in *Scholfield v. Londesborough* to have been the view taken of *Young v. Grote* by the Lords. Lord Macnaghten quoted Lord Cranworth (in a cited case) as follows:—"The principle is a sound one, that when the customer's neglect of due caution has caused his bankers to make a payment on a forged order, he shall not set up against them the invalidity of a document which he has induced them to act upon as genuine." These passages referring to *Young v. Grote* are not specially cited in the judgment of the Privy Council, but it is said that *Scholfield v. Londesborough* "had now become the governing authority which must prevail so far as the principles laid down in it extended."

The extent of the obligation of the drawer of a cheque not to mislead his banker, and the support derived from *Young v. Grote*, seem to be stated to the same effect by the House of Lords and by the High Court of Australia. The High Court professed to follow the House of Lords' case and carried out to a logical conclusion the principles there laid down, aided by the expressions of opinion on the question of banker and customer; this question, while only arising incidentally and by way of analogy in the House of Lords, was at the root of the matter to be decided by the High Court. No lawyer, it is submitted, can rise from a perusal of the judgments of the House of Lords in *Scholfield v. Londesborough*, and of the High Court of Australia in *Marshall v. Colonial Bank of Australasia*, without being convinced that the judgment of the latter would now be recognised by the House of Lords as correctly carrying out the principles laid down by the Lords to their proper conclusion. It is, of course, as pointed out in the judgment of the Judicial Committee, impossible to define the extent of the duty of a customer to his banker in this regard, or the limits of the obligation of the banker. With reference to the principles laid down in *Scholfield v. Londesborough*, it is said: "The principles there laid down appeared to their Lordships to warrant the proposition that, whatever the duty of a customer towards his banker might be with reference to the drawing of cheques, the mere fact that the cheque was drawn with spaces such that a forger could utilise them for the purpose of forgery was not by itself any violation of that obligation. Their Lordships therefore agreed with the High Court of Australia that there was no evidence proper to be left to the jury of negligence on the part of the respondents." Had the Judicial Committee in their judgment analysed the case of *Young v. Grote* it would have been more apparent that the principles of *Scholfield v. Londesborough* were correctly applied to the case of banker and customer. Agreeing with the judgment delivered in the High Court of Australia, the judgment of the Judicial Committee may in a sense be said to incorporate the judgment of the High Court as part of itself. The High Court put its finger on the weak point in *Young v. Grote*—that the Court which decided that case was already bound by a finding of negligence (1 Commonw. L.R., at p. 648)—and it is only by attending to this peculiarity of the case that it is seen to be no authority whatever for the doctrine that the drawer of a cheque must at his peril see that no additional words can be written into it.

(The Solicitors' Journal.)

Personal.

Messrs. R. E. EMSON & Co., of 26 Budge Row, Cannon Street, E.C., announce that they have taken Mr. FRANK R. EMSON, the son of their principal, into partnership.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, Sept. 7th, was 152, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 70; Deeds of Arrangement registered, 82. The respective numbers in the corresponding week of last year were: Bankruptcies, 76; Deeds of Arrangement, 64—total, 140; being an increase of 12. The total number of commercial failures recorded during the 36 weeks of the present year is 5,798; the total number recorded in the corresponding 36 weeks of last year was 6,173, showing a decrease of 375.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, Sept. 7th, was 115. The number in the corresponding week of last year was 137, showing a decrease of 22. The total number filed during the 36 weeks of the present year is 5,271; the total number filed in the corresponding 36 weeks of last year was 5,788, showing a decrease of 517.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, Sept. 7th, amounted to £657,769, by way of addition to £334,100, previously issued by the same companies. The amount registered in the corresponding week of last year was £1,354,341, showing a decrease of £696,572. The total amount registered during the 36 weeks of the present year was £59,227,674 (in addition to the issues in previous years by the same companies), as compared with £56,769,661 for the corresponding 36 weeks in 1905, showing an increase of £2,458,013.

NO FUNERAL EXPENSES.—A testator's estate was being administered in Chancery, and the chief clerk pointed out that no sum had been mentioned in the usual affidavit as having been laid out in funeral expenses, and declined to proceed till this had been rectified. In vain did the solicitor try to explain; the chief clerk adjourned the matter, and would listen to no explanations. "There must," he said, "be some funeral expenses, and these must be set down and a receipt shown." At last the matter was adjourned to the Judge, when the following colloquy took place: "Mr. A., my chief clerk tells me that you decline to furnish an account of the funeral expenses. What is your explanation of this?" "M'lud, I have tried to tell the chief clerk many times, as m'friend here knows, but he has never allowed me to explain." "Well, Mr. A., what is the explanation?" "M'lud, there are no funeral expenses; the testator was eaten by a crocodile in India."—From "P.T.O."

The Profession in Scotland.

Obituary.

The death occurred in Aberdeen, on the 9th inst., of Mr. William Milne, C.A., senior partner of Messrs. Milne & Milroy, C.A., Aberdeen. The deceased, who was in his seventy-fourth year, had been in feeble health for the last four or five years, and for some time had been quite incapacitated from all professional work. About a fortnight before his death he had a stroke of paralysis. Mr. Milne was a native of the city of Aberdeen, and was educated at Robert Gordon's College. He began his professional career with the late Mr. William Ross, advocate, Belmont Street, serving an apprenticeship as an accountant. With the view of gaining wider experience he went to Edinburgh in 1856, and entered the office of Messrs. Lindsay, Jamieson & Haldane, and was for several years confidential clerk to the late Mr. Auldjo Jamieson. Mr. Jamieson, in 1863, appointed him factor on Lord Huntly's estates during his Lordship's minority, and he continued to act as factor until 1897, when he was succeeded by his partner, Mr. Robert Milroy. In 1863 he started business on his own account in Aberdeen, and, in association with the late Mr. James Meston, was the founder of the Aberdeen Chartered Accountants' Society in 1867. In 1873 Mr. Milne joined the late Mr. Marquis and Mr. Harvey Hall as a partner and the firm became known as Marquis, Hall & Milne. This partnership lasted until 1888, when it was dissolved, and the deceased carried on business on his own account until 1897, when he assumed as partner Mr. Robert Milroy, who had been in his employment since 1880. Mr. Milne held many important professional appointments in Aberdeen and the North, and was auditor of the accounts of the Police Department of the city. He was pre-deceased by Mrs. Milne in 1902.

General Examining Board of the Scottish Societies.

The General Examining Board have issued a new Syllabus of Examinations, which, however, does not come into operation until after the examinations to be conducted in December of this year.

The principal change is in the Preliminary Examination, where either Latin, French, or German is now made a compulsory subject. There are thus four compulsory subjects instead of three, as formerly, and other two subjects which may be selected from a list of four.

In the Intermediate Examination the Algebra paper will include "Annuities Certain," and Paper No. 4 "Précis-writing," along with Correspondence.

In the Second Division of the Final Examination "The

Principles of Cost Accounts" has been included in Paper No. 5, and "Statements for Income-tax Returns and Claims" in Paper No. 8.

LORD CHARLES AND TOM FAT.—Lord Charles Beresford, many years ago, says a writer in *Cassell's Magazine*, suffered considerable loss at the hands of a Chinese servant named Tom Fat. In the course of a speech in the House of Commons he happened to be pleading for toleration for foreign religions, saying, in his characteristic manner, that a Chinaman had as good a chance in the future life as he had, when a member interjected the question, "What about Tom Fat?" Lord Charles Beresford was equal to the occasion. He immediately replied, "Tom Fat will be in the fire!"

Bank Rate of Discount.

April 5th 1906	..	..	..	..	..	..	3½%
May 4th	..	..	..	..	..	..	4%
June 21st	..	..	..	..	..	..	3½%
Sept. 13th	..	..	..	..	..	..	4%

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GÉRARD VAN DE LINDE, Esq., F.C.A.

The Accountant

THE RECOGNISED WEEKLY ORGAN OF CHARTERED ACCOUNTANTS

AND

ACCOUNTANCY THROUGHOUT THE WORLD.

VOL. XXXV.—NEW SERIES.—No. 1659.] SATURDAY, SEPTEMBER 22, 1906. [PRICE 6d.

Extract from *Auditing*, by LAWRENCE R. DICKSEE, F.C.A.
(Page 190)

Licensed Houses present some rather special features. The goodwill attaching to the license gives the lease or freehold of licensed premises a market value greatly in excess of their real value as buildings. To be properly considered, the value of the premises and the license must be separated. The former should be depreciated in the usual way, leaving the license alone to be considered. A license on freehold premises does not depreciate, but a license on leasehold premises passes away with the premises and must therefore be depreciated like a lease. A license may at any time be lost—either for misconduct or for no reason—but this is a contingency outside the scope of depreciation. It may, however, be provided against by insurance, which would appear to be a most prudent course to adopt.

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Leading Articles.

Gérard van de Linde, Esq., F.C.A.

SOME little time ago we were requested by several correspondents to include the portrait of Mr. VAN DE LINDE in the pictorial series which have been appearing for some time past in our columns, and we have now pleasure in complying with the request. We should have thought, however, that few

students would be unacquainted with the physical lineaments of Mr. VAN DE LINDE, and fewer still unfamiliar with his name. Certainly no one has been so prolific in respect of lectures as the subject of our illustration, and few have been so generous in gifts to the Chartered Accountants' Benevolent Association. To enumerate some of the subjects Mr. VAN DE LINDE has dealt with on behalf of the students, mention must be made of—

The Preparation and Audit of Income and Expenditure Accounts.

The Biography of a Lloyd's Policy.

A Merchant's Office.

Marine Insurance.

Collieries.

A Merchant's Accounts.

The Preparation and Audit of the Accounts of Income and Expenditure relating to Charitable Institutions.

Company Work.

Bookkeeping.

Secretarial.

A Chartered Accountant's Office.

The Articled Clerk.

The Audit of Banks and Mercantile Firms (with or without Branches at home or abroad).

the whole comprising a series of lengthy, well thought-out papers read at the meetings of the various Students' Societies throughout the Kingdom, and appreciated not only by his immediate hearers but by embryo accountants throughout the Colonies. These papers have, doubtless, been a very heavy burden—willingly borne, however—and have, moreover, involved the author in a voluminous correspondence which must have been a severe tax on the time of a busy practitioner. Considerations of health have compelled him to appear less

frequently than of yore before the students, but his good wishes are still with them. Mr. VAN DE LINDE is chief of the firm of GÉRARD VAN DE LINDE & SON, Chartered Accountants, 50 Gracechurch Street, E.C., and is in his sixty-sixth year. Severe bereavements, with which our readers are sympathetically cognisant, have had a mellowing influence on a heart exceptionally kind.

The Relative Value of B.Sc. and B.Com. Degrees.

MUCH interest attaches to the letters that have appeared in our Correspondence columns under this heading during the past two months, indicating, as they do, not merely that the more progressive of our Universities are laying themselves out to provide courses of practical value to business men, and especially to professional accountants, but also that some at least of these latter are beginning to duly appreciate the advantages offered.

It seems to us that while a discussion of the question of the relative merits of the London degree, B.Sc. (Economics), and of the B.Com. degree granted by the Birmingham and Manchester Universities may be of considerable academical interest, it can be of but little practical importance to anyone who may be considering the desirability of entering himself for the courses leading to one of these degrees. It is, of course, generally admitted that a degree of the University of London is harder to get than that of any other University, so far as the question of difficult examination papers

is concerned, but, on the other hand, the value of a University degree is by no means confined to its testimonial of the ability of its holder to come up to a certain examination standard, and so far as the external students of the University of London are concerned, the London degree guarantees nothing but the examination standard, inasmuch as there is no common tuition and no common residence. Tuition leading up to the London degree can, of course, be obtained at the London School of Economics, at King's College, and at University College, but it is not compulsory upon candidates for degrees, nor is it necessary that even the internal students should take advantage of such limited opportunities for social intercourse as the teaching colleges provide. A London degree standing alone is thus an excellent testimonial of intellectual ability, but no testimonial at all as to character, using the term as implying something very much more than mere respectability.

On the other hand, both Birmingham and Manchester are new Universities, and until a larger number of graduates have been admitted it will be difficult to gauge the practical or commercial value of the degree that they are able to grant, for in the long run the value of any degree is that which is imparted to it by the graduates collectively rather than by the University itself. At Birmingham all the advantages of the residential system obtaining in the older universities are available, although they are compulsory only to a limited extent, whereas at Manchester the degree in Commerce would appear to be one that is open to the practical business man to take by diligent study in his spare time without interfering with his daily avocations. Such an arrangement no doubt simplifies enormously the task

of the teaching staff, but it appears to present all the disadvantages of the London course without the corresponding advantage of an examination which is of universally acknowledged severity.

As we have already stated, however, these comparisons are of but little practical value, in that presumably the majority of would-be graduates will determine their choice almost exclusively upon local conditions—that is to say, in the majority of cases those residing in the neighbourhood of London will find it most convenient to study for the London degree, while students for Birmingham and for Manchester will doubtless be recruited largely from their respective neighbourhoods. In the nature of things it is only the man who is able to devote the whole of his time to study who can do otherwise.

As to the matriculation difficulty, while sympathising with the correspondent who finds in this requirement an insuperable barrier, which he considers ought in his case to be removed in consequence of his having passed the Preliminary Examination of the Institute of Chartered Accountants, we may point out that while no doubt it is in most cases only fair to deal exceptionally with exceptional circumstances, it is putting matters quite the wrong way round to expect an educational institute to accept as equivalent to its own an examination on general education prescribed by a non-educational body.

The tendency of the present day is in the direction of making the leaving examination of good schools tantamount to matriculation, and this would, of course, satisfactorily solve the difficulty so far as the future is concerned. All that the University requires is to be protected

against wasting its time upon entirely unprofitable material, and it therefore requires all students to pass an examination which is evidence of having received and having profited by a good general education. The Institute of Chartered Accountants and other similar bodies ought, one would imagine, to be able to dispense in practice with a preliminary examination, inasmuch as at all events the great majority of would-be articled clerks should have had a sufficiently good general education to have enabled them in the ordinary course of events to pass one or other of the examinations which will entitle them to exemption from the Preliminary. It is indeed remarkable that so small a proportion of articled clerks should be thus entitled to exemption, but in the long run we feel sure that the course of events will tend in the direction of substituting, under suitable safeguards, school-leaving examinations for both Preliminary and Matriculation Examinations. In that way an altogether unnecessary amount of overlapping would be avoided, and for the future, at least, the hardship of the man who in later life wishes to return to a scholastic career will be altogether avoided. In the meanwhile, we are afraid that the difficulty must be faced in exactly the same way that the Preliminary Examination of the Institute, or its equivalent, has to be faced by men of all ages who now seek to be articled to Chartered Accountants as a preliminary to securing membership to the Institute.

Secret Reserves.

THE article on Hidden Reserves which we reproduce this week from the columns of *The Manchester Guardian*, is of sufficient

interest to justify us in reopening the discussion which appeared in these columns a month or so since. The line taken by our contemporary is more practical than that ordinarily observed by a daily newspaper, and indeed we should probably not be far wrong if we hazarded the guess that *The Manchester Guardian* is indebted for its views to some local member of the accountancy profession. If this be so, however, so far at least as our readers are concerned, it merely enhances interest in the article in question.

While admitting, as all practical persons must admit, the necessity of some form of Secret Reserve in all properly conducted business undertakings, our contemporary points out that the Birmingham Small Arms Company, in the case that has recently attracted attention, sought to carry the position a step further, in that they wished to have power not only to build up a fund in this way, but also to make special payments from it without disclosure to the shareholders. This is, indeed, the crux of the whole matter. All reasonable persons must admit the desirability of allowing directors to reserve profits, and must permit them a reasonable discretion as to how far the existence of such Reserves shall be disclosed. What was objected to in the B. S. A. scheme was the power proposed to be given to directors to deplete this Reserve not merely without the knowledge and sanction of the shareholders, but without the shareholders having under any conceivable circumstances the right to ask for information upon the matter, either from the directors or the auditor, both of whom are, of course, in varying degrees, the servants of the shareholders.

In a letter which appeared in these columns on the 11th ult., Mr. ERIC M. CARTER, F.C.A.,

while very properly drawing attention to the fact that in one way or another well managed companies will always have Secret Reserves, appears to have somewhat misapprehended some of the points at issue—or at all events one of the points at issue. He accused us of entirely overlooking the fact that directors can just as easily employ the general funds of a company as the secret funds for the purpose of paying corrupt bribes, adding that shareholders have, as a rule, no right to call for an account of any expenses incurred by a company, whether internal or otherwise. It is, of course, quite true that the accounts ordinarily submitted to shareholders are summarised, and that there is thus no insuperable obstacle to prevent those who may be so minded from so stating the accounts that expenditure which it is desired to conceal may be hidden away under misleading headings, so that, although it is accounted for as a matter of figures, its existence remains unsuspected. This may be done either by a skilful grouping of the various items of expenditure debited to Profit and Loss Account or by the entire suppression of that very useful document. But, although it is possible to thus conceal expenditure made out of the general funds of a company from its published accounts, it is clear that this act of concealment by the directors, so far from authorising the auditor in observing an equal reticence, imposes upon him the duty of specially drawing the attention of the shareholders to those matters which he thinks it necessary to bring to their knowledge that are not fully and fairly disclosed upon the face of the accounts as issued. If it came to the notice of an auditor that any of the general funds of a company were employed in corrupt bribes, or otherwise improperly, it would

clearly be his duty to report the fact to the shareholders.

But if the articles of association of a company give its directors power to employ the Secret Reserve in whatever manner they may in their absolute discretion think fit, and preclude the auditor from giving any information with regard to the matter to the shareholders, then clearly if such provisions be not *ultra vires* the tongue of the auditor is tied, and he is prevented by the company's own regulations from discharging his statutory duty. If, as Sir ROBERT FINLAY sought to urge, such a provision in the articles of association must be taken as being effective only to the extent that it does not interfere with the statutory duty of the auditor, but is effective up to that unknown and highly problematical point, then it seems to us that, to say the least of it, an unnecessary and altogether onerous duty is thrown upon the auditor of carefully distinguishing between what is and what is not such a malversion of trust funds as may absolve him from compliance with the prohibition contained in the articles of association. We may point out, however, that this is really the beginning and not the end of the matter. In considering a clause of this description, one has to deal with it not as to how it will probably work out in practice, assuming that all attendant circumstances, including the *personnel* of the board, are in its favour, but how it might be reasonably expected to work out in practice under normal—or even under adverse—circumstances. We do not, as our correspondent appears to imagine, suppose that directors are greater rogues than shareholders or any other class of persons, but we do think it undesirable that any class of persons who occupy the position of accounting parties should be altogether and irrevocably

exempted from those safeguards which experience has shown it is necessary, in the interests of the public, should be imposed upon them.

Before concluding, however, we should like to point out that in actual working such a provision in articles would, we think, in all probability be found to absolutely preclude the possibility of an effective audit of payments out of the Secret Reserve. Save in those cases where the audit is redundant because everything is absolutely in order, the object of an audit is, we need hardly remind our readers, to enable irregularities to be detected; and if it is going to be taken for granted that the *personnel* of the board is such as to preclude the possibility of irregularities, then, as we have already pointed out, the sooner that assumption is made candidly, and carried to its logical conclusion of abolishing the audit altogether, the better for all parties concerned, for an illusory safeguard is undoubtedly worse than no safeguard at all. Assuming, then (as it is necessary to assume for the proper discussion of this point, and as may, we imagine, be assumed without the least reflection upon the board of the Birmingham Small Arms Company, Lim., or any other individual company), that a particular board is desirous of appropriating some portion of its Secret Reserve for an improper purpose—be it the payment of a corrupt bribe, investment in companies in which individual directors are personally interested, in payment of additional directors' fees, or of loans to individual directors without adequate security—if the directors possess the power to employ these funds in whatever manner they in their discretion may think fit, it is clear that, so far as the audit of such a fund is concerned, the only authority and voucher that the auditor would be entitled to

ask for would be a resolution of the board voting the payment and the acknowledgment of its receipt by the payee named in the board minute. The auditor would have no power to inquire as to the nature of the payment, and if it were an improper one, it does not require very much experience of men of affairs to gauge the probability of the record being so framed that *prima facie* it does not appear to be improper. The limited inquiry which would alone be practicable by the auditor under such circumstances would be insufficient to disclose irregularity, and thus the hypothetical case cited by Sir ROBERT FINLAY would, it may safely be assumed, never occur in practice.

Lastly, we may point out that under all ordinary articles of association it is competent for shareholders who are dissatisfied to appoint a committee of investigation to inquire into the company's affairs generally, and in particular to examine its books of account. It seems to us very doubtful whether the accounts relating to the disposal of a Secret Reserve could ever be called for by such a committee in the face of the company's article that was challenged by Mr. NEWTON in the *Birmingham Small Arms Company's* case. To obtain such an investigation it would, we think, be necessary to alter the articles of association by special resolution, and this, of course, means that a very serious difficulty would be placed in the way of shareholders who desired to exercise a right that they undoubtedly possess under all normal articles.

For our own part, while freely admitting, as we have always admitted in these columns, the desirability and necessity of Secret Reserves in reason, we cannot bring ourselves to the view that it is desirable that the existence of these Reserves should be formally recognised by the

passing of some such addition to the company's articles of association as that now in question. The practice which has existed for very many years of creating such Reserves without express authority has, we think, much to commend its retention. It imposes upon those responsible for the accuracy of the accounts presented the duty of saying that these Reserves are both necessary and reasonable, and, for our own part, we think it would be very regrettable if anything were to be done to absolve accounting parties from this duty.

Company Law Reform and Stock Exchange Abuses.

[In our Correspondence column last week will be found a letter which, as we stated in a foot-note appended thereto, raises a question which we think well worthy of further discussion, although we are unable to accept all the statements made by our correspondent. It is, we think, hardly necessary to attempt to apportion blame without first of all ascertaining whether abuses that admittedly exist are preventable, and in particular can be prevented by those who are held up to criticism; but, however that may be, the main point must be admitted, and has already been frequently drawn attention to by ourselves in past issues, that most of the losses of the public through speculations in "wild cat" schemes might have been avoided had there been no Stock Exchange dealings in the shares of those companies. It is, we think, beyond question that in certain cases official quotations have been granted to companies which had not complied with the conditions precedent thereto; and in more numerous instances there have been considerable dealings on the Stock Exchange in

the shares of companies which, from the plain business man's point of view, ought never to have been touched by the Stock Exchange at all.

But admitting all this it may, we think, well be asked whether it is reasonable to hold the Stock Exchange Committee or individual members responsible. They do not hold themselves out to the public as censors of company promotion, nor do they in any way suggest to the public that the mere fact that they have bought or sold shares in any particular company on behalf of a client is to be taken as implying that the company is reputable or in any way suitable either for investment or speculation. So far as mere dealings go, stock-jobbers are like other merchants—that is to say, they lay themselves out to sell that which the public is desirous of buying, and to buy that which the public is desirous of selling. They owe absolutely no duty whatever to the public, and it is difficult in the extreme to suggest any serious reason why they should be expected to refuse to deal in shares which the public are desirous of dealing in. The position of the stockbroker is, of course, somewhat different. He is employed by and is the agent of his client the public, and it thus becomes his duty to consider, at all events so far as may be practicable, the interests of his principal. There can be no doubt that, in general, brokers discharge this duty most scrupulously, often losing good business by advising their clients against certain investments or speculations which they would otherwise have undertaken. But it is not every client who is open to such advice, and it is not always that the broker is possessed of sufficient knowledge to give the necessary warning. He has no special facilities of obtaining information, and it would there-

fore be grossly unfair to impute to him a knowledge of the position and prospects of each of the numerous companies in which he deals. Unless, therefore, members of the Stock Exchange were prohibited from dealing in *all* stocks and shares until an official quotation had been granted, it seems to us that it would be quite impracticable to provide anything that purported to be a more effective safeguard to the public than that at present afforded by the disinterested advice which every broker of repute is always willing to give, albeit gratuitously, to his clients.

Assuming the Stock Exchange Committee were to make a regulation limiting the dealings of members in the direction just indicated, and assuming that regulation to be binding upon all members, the next point that calls for inquiry is as to whether such a restriction would have any practical effect as preventing dealings on the part of the public in the shares of what may be conveniently called "undesirable" companies. This question only requires to be considered quite superficially to enable it to be answered unconditionally in the negative. The public does not dabble in the shares of rotten companies because it is lured into doing so by dishonest and interested brokers, but because, as a result of what it has heard or read outside the Stock Exchange, it has come to regard these particular shares as a ready means for making money quickly without earning it. Probably the one saving feature in the whole situation is that in the ordinary course of events the speculator goes to a respectable broker. If all respectable brokers refused to undertake such business it is certainly not reasonable to suppose that it would remain unperformed. The Stock Exchange would be quixotically throwing

away a substantial portion of its income, but the public would be in no way benefited, in that it would undoubtedly get its business transacted by outside brokers, and would thus not merely be swindled by dishonest company promoters, but also by dishonest keepers of "bucket-shops." At the present time those behind these market rigs think that they can secure their purposes best through the medium of the Stock Exchange; but if that opening were barred to them they would certainly find other means of attracting the public, and we question whether anyone would be sufficiently optimistic to suggest that the public would be the better for the alteration.

With regard to the question of official quotations, which are, of course, quite a different thing from an official settling-day, it must be admitted that—in some cases, at least—quotations have been given to companies where more than the prescribed maximum of shares remained under the control of the promoters. Such quotations can, of course, only have been obtained by fraud, and it would certainly be profitable to inquire whether more effective steps could not be taken to prevent a recurrence of frauds of this description; but we are quite opposed to our correspondent's suggestion that a qualified accountant nominated by the Board of Trade should be called upon to examine the circumstances of each company, and report as to whether or not all the prescribed conditions have been complied with. It would be absolutely impossible to institute any inquiry that would invariably detect a deliberate fraud cleverly engineered; and, that being so, the safeguard that such an inquiry would purport to provide would be illusory, and in consequence most dangerous. The question as to what additional safeguards

might with advantage be provided is, however, well worthy of very careful consideration; and with a view to initiating a discussion upon this point we would suggest in the first instance that all companies intending to apply for a quotation should be required to state the fact in the prospectus, and to obtain from their respective auditors a certificate that the allotment of shares had been carried out under their immediate supervision, and that, so far as they were able to ascertain, they had every reason to suppose that the various allottees held the shares standing in their respective names unconditionally, and free from the control of any pool. It may be questioned, however, whether even this provision would be very effective in practice until a law has been passed declaring participation in any pool having for its object the inflation or depression of the market price of any shares or stocks to be a criminal conspiracy to defraud the public; and it would certainly tax the ingenuity of lawyers to frame an Act upon these lines which would remedy abuses which all straightforward persons are desirous of putting down, without at the same time so interfering with legitimate transactions as to render the conduct of ordinary and proper business impossible.

Weekly Notes.

Combines and Competition. The announcement of the formation of a South Wales Siemen's Steel Association and the rumours of further combination among British iron and steel manufacturers has led a weekly commercial contemporary to put on record some peculiarly interesting facts relative to the working of such combinations in Germany. It is said, and we can well believe it, that industrial syndication is more complete, and more effective, in the coal, iron, and steel trades of Germany than in any other class of industries in any country—not even excepting America. All the

various syndicates are either sections of a composite whole or work in harmony therewith, and practically every material and article of manufacture is thus controlled. The organisation is said to be perfect, each of the works in the syndicate being visited by a committee of experts, its capacity for production and aptitude for special classes of work is ascertained, and orders are received and allocated by the central office of the syndicate so as to prevent waste, overlapping, and unnecessary delay. Prices are fixed by and remittances made by the central office, which is also able to use great weight when transit rate problems arise. Then it is interesting to note how the export bounty policy, inaugurated in Germany in 1897, has worked. The various syndicates supplied their associated customers with raw materials at cheaper rates when those materials were required for the manufacture of goods intended for export than when needed for goods intended for home consumption. These rates were increased or decreased in accordance with the home demand, the object being, of course, to secure the continuous running of the mills—as our contemporary puts it, “dumping abroad rather than damping furnaces at home.” German manufacturers were therefore enabled to sell their goods in this country at less than our own cost price, to the serious detriment of our own trade. It is said, by way of example, that the German Wire Rod Syndicate in one six months' period sold 22,000 tons at home at a profit of £58,000, and 19,000 tons abroad at a loss of £42,000. The bounties as recently as last year were as much as 1s. 6d. per ton of coal, 4s. 10d. per ton of pig iron, 15s. per ton of semi-finished steel, and 20s. per ton on shapes. Now, however, as the vigorous home demand is taxing the capacity of Germany's furnaces to the utmost, this bounty policy—so long and so cleverly maintained—has been dropped, giving our own manufacturers a long looked-for chance. Let us hope that they will accept it—the move in the way of combination is at any rate a *move*, and that is much better than standing still waiting until the German bounty policy comes into force again, as it assuredly will when the home demand has been overtaken.

Losses in the World's Mercantile Marine. The statistical summary published by Lloyd's Register shows that during 1905 the gross reduction in the effective mercantile marine of the world amounted to 883 vessels, of 792,354 tons, excluding all vessels under 100 tons. As between steam and sail this total is divided

as follows: 382 vessels were steamers, 527,978 tons; 501 sailing vessels, 264,376 tons. Casualties under the generic phrase "wrecked" are the most prolific cause of disaster, the percentages being 41.6 in the case of steamers, and 41.3 as regards the losses of sailing vessels. The percentage of steamers lost by the United Kingdom was 1.34, while the average percentage of the British Colonies, the United States, France, Germany, Italy, and Norway was 1.55, the figures as regards sailing vessels being 3.37 per cent. and 4.14 per cent. respectively. Those who go down to the sea in ships will note the large proportion of disasters among sailing vessels.

Some Quaint Insurance Risks. In these hustling go-ahead days there is apparently nothing that cannot be insured, and some of the risks mentioned by a well-known broker at Lloyd's in an interview with *The Tribune* representative are certainly quaint enough in all conscience. For instance, we are told that it is by no means an uncommon thing for the managers of a race meeting or a cricket match to insure against their receipts being diminished in the event of rain. Another feature is the insuring of the lives of reigning monarchs and public men, while losses from earthquakes and hurricanes, and even war and revolutions, are considered quite ordinary business. Among recognised curiosities may be mentioned the case of an impecunious peer, who, in order to secure a loan from a cautious money-lender, insured his marriage to the lady in question, while another individual insures against a rise in the price of his cigars!

Partnerships and Promissory Notes. A corporation and a partnership signed (in the order named) as joint makers of a promissory note, which came into the hands of a holder in due course. His attempt to enforce it, however, resulted, says a financial contemporary, in a decision by the United States District Court of Texas that the fact of the note being jointly made by a corporation and a partnership amounted to notice that the transaction "was not one in the usual and ordinary course of borrowing money for partnership purposes." It seems, we are told, that the holder must show either that the proceeds of the note were actually used in the partnership, or that all the parties assented to the making of the note, or subsequently ratified it. Perhaps some of our readers may like to forecast what the decision would have been had

a similar action, under similar circumstances, been brought in this country.

The Trade Union Bill.

Lord Lindley's recent article in *The Times* has provoked Mr. Frederic Harrison to pen an epistle which in its unreasoning vehemence is indeed regrettable. Mr. Harrison contends that the question is one of politics, not of law, and he accuses Lord Lindley of being "a bitter and ignorant party bigot." The grounds, if indeed the word "grounds" can be applied thereto, on which this contention is based are merely dogmatic statements to the effect that "every trade union is permanently fighting for its very life against a secret, powerful, unscrupulous combination of capitalists who are ready to take any opportunity to destroy and cripple it," and that "every trade union question comes before tribunals which are almost uniformly prejudiced in favour of capital and hostile to labour; which are always ready to give full rein to their prejudices and their ignorances, just as Lord Lindley does." Into the question of the administration of justice by His Majesty's Judges we need not go, for few will be found to concur in this wholesale unsupported indictment, but we may perhaps be permitted to point out that the very essence of the Bill is to set up a favoured class—the precise sin attributed to the law lords! For the rest, Mr. Harrison's object will not gain much by the use of such tactics.

Cash Reserves.

The half-yearly analysis of London joint-stock and private banks made by Mr. H. W. Birks for the half-year ended the 30th June last shows that the bank holding the highest proportion of cash to liabilities (deposits and acceptances) was Robarts, Lubbock & Co. with 22.27 per cent., and the lowest Coutts & Co., with 8.42 per cent., the average being 14.20 per cent. The proportion of cash in hand and at call and investments against liabilities varied from 78.25 per cent. in the case of Child & Co. down to 35.80 per cent. in the case of the National Bank, the average being 52.67 per cent.

American Insurance Premiums and Income Tax.

For quite a number of years it has been the practice among American life offices to allow, by way of rebate, the income-tax on the premium payable which the English assurer loses by virtue of his inability to

deduct premiums payable to American offices when making his return to the Inland Revenue authorities. It has, of course, been pointed out several times that this practice was unfair to policy-holders in other lands, and it is now reported that it will be discontinued. A point will, however, arise, we should imagine, as to whether or not the concession is a part of the original contract; and although this may be a question of fact in each case, the intervention of the Courts is not unlikely.

Mr. Bryan and the Trusts. We do not know what chance Mr. Bryan possesses of becoming Presi-

dent of the United States, for politics are outside our sphere, but he proposes to enforce the criminal clause of the Sherman Law (against monopolies), to render it illegal for the same person to act as director of two or more inter-related corporations, to adopt a scheme for the Federal licence of corporations engaged in inter-State commerce, and to forbid the use of the mails, telegraph, and railway lines to any corporation seeking a monopoly of any article of commerce. As regards contribution to political campaign funds he is all for publicity, and would forbid such contributions from corporations. He also would advocate that the President should be allowed to authorise the importation, free of duty, of articles competing with those made by Trusts, and is in favour of the election of U.S. Senators by direct vote.

The Bills of Exchange (Crossed Cheques) Act, 1906. In another column we reproduce the Bills of Exchange (Crossed Cheques) Act, 1906, which received the royal assent on the 4th ult., and is designed to remove the disability recently placed by the Courts upon bankers collecting cheques on behalf of customers by a somewhat unexpected reading of Section 22 of the Bills of Exchange Act on the part of the House of Lords. The new Act, which consists of but one effective section, deals solely with the point at issue, and remedies what can only be regarded as an admitted injustice.

The Associated Chambers of Commerce. The annual autumnal meeting of the Associated Chambers of Commerce of the United Kingdom was held at Bristol last week. A summary of its proceedings in so far as they are likely to prove of interest to our readers will appear in these columns in due course, and in the

meantime we may mention that one of the most important resolutions passed upon the opening day expressed regret that nothing has yet been done to remedy anomalies existing in reference to the income-tax, many of which must now be regarded as admitted, in view of the report of the Departmental Committee of last year. Inasmuch, however, as a second Committee has been appointed to consider other aspects in connection with the incidence of income-tax, and has not yet reported, it seems to us that this resolution is a little premature.

Directors and Professional Charges.

In a case which came before His Honour Judge Rentoul, K.C., in the City of London Court, a short time since, a firm of solicitors sued another firm for £5 7s. 6d. for costs in endeavouring to raise a loan. It appeared that the defendant was desirous of raising £450 for a client, and had asked the plaintiff to undertake it, which he had agreed to do upon the defendant undertaking to pay costs. The matter was placed by the plaintiff before a company of which he was the solicitor and chairman, but no loan was made, as the security was considered insufficient. Included in the plaintiff's demand for costs was an item of ten shillings for attending the board meeting of the company concerned on defendant's behalf, and he contended that it was a well-known practice for solicitors to insurance and other companies, although they happened to be directors of the company, also to act for clients in regard to a mortgage and to be paid in both capacities. The case under review was a somewhat extreme one, as there was only one other director present at the board meeting referred to, and the witness as chairman had the casting vote. Judge Rentoul stated that if such a custom really existed it was an extraordinary one, and was subversive of all common sense. He might as well accept a brief to conduct a case before himself in his own Court. After this expression of opinion the parties settled the case by withdrawing the record. A good deal has been heard from time to time of recent years of the iniquities of agents accepting commissions from both sides. We have no intention of defending such a practice, but we may point out that there are even stronger arguments against allowing professional men whose services have been retained by one party to act for and charge costs to the other, unless it be perfectly clear that both parties are cognisant of the arrangement.

Company Liquidation. We regret not being able to reply more promptly to the question raised in the letter signed "Tunisian" which appeared in a recent issue, in which our correspondent deals with a claim put forward by the Companies Liquidation Department of the Board of Trade to have paid in to the Companies Liquidation Account at the Bank of England a larger sum than he considers them to be entitled to under Section 15 of the Act of 1890. The wording of that section justifies a demand upon the liquidator for any money representing unclaimed or undistributed assets of the company which have remained unclaimed or undistributed for six months after the date of their receipt. Under this rule it is clear that no moneys need be paid in until six months after they have been received by the liquidator. If in the meantime they have been claimed or distributed, Section 15 cannot, of course, apply. We consider that our correspondent is quite correct in the view that he takes with regard to the matter, and we think that if the Board of Trade officials be suitably approached they will adopt a course which, we understand, they have often adopted upon previous occasions—i.e., climbed down.

A Bookkeeping Question. With regard to the case put forward by our correspondent "Weary," assuming that the transactions stated are genuine transactions, there can be no question as to the propriety of so regarding them in the books of account—that is to say, as a sale and a subsequent repurchase of goods. The genuineness of such transactions is not to be determined by the movement of the goods in question, but by all the facts. We do not, however, agree that the mere fact of debiting a loss to Profit and Loss Account as a separate item suggests a gambling transaction of any kind. Transactions in differences may be perfectly legitimate, and should be so regarded in accounts; but transactions which are not in differences but in bulk should be regarded in the form in which they actually take place.

Treatment of Coal Royalties as Income in Trust Accounts. "Chartered Accountant's Clerk," who in our issue of the 18th ult. raised a question as to whether the tenant-for-life of the estate of a deceased testator is entitled to the whole amount received by the executors as royalties in respect of a colliery forming part of the trust estate, while apparently not quite clear in his own mind as to the propriety of such treatment, appears to think that in view of the decision in

Lee v. Neuchatel Asphalte Company, Lim., it is legally correct. We may point out that this decision cannot possibly have any bearing upon the matter, in that it relates not to the distinction between capital and income as between life-tenant and remainderman, but to the right of the shareholders of a solvent company to deal as the majority may think fit with their own affairs, subject to the limitations of the Companies Acts under the articles of association of the particular company concerned. The decision in *Howe v. Lord Dartmouth* shows that in the absence of any express provision to the contrary where an estate is left in trust for or directly to several persons in succession, the Court implies the intention that such portion of the estate as is perishable should assume a permanent character, and therefore be capable of succession. Due provision must therefore be made out of income for any deterioration that may take place in the capital value of the asset during the continuance of the trust in favour of the life-tenant. With regard to our correspondent's second inquiry, an annuity secured by deed on real estate is primarily chargeable against the income of real estate.

An Accountant's "Vade Mecum." A correspondent recently sought for advice as to the best book obtainable on practical accounting, which was to give an outline of a complete set of books from the commencement to an auditor's signature on the Balance Sheet. It is by no means clear to us precisely what is expected, but we think that in all probability our correspondent will find what he requires in Dicksee's "Bookkeeping for Accountant Students." Naturally, however, something depends upon the nature of the business carried on. No single book can be expected to deal upon practical lines with all the different methods of accounting in use under varying conditions.

Motor Buses and Depreciation. The announcement made by the directors of the Associated Omnibus Company that no interim dividend will be paid in respect of the first half of the present year, on account of the uncertainty that exists with regard to the amount which will require to be allowed for depreciation, will serve to remind shareholders that new methods of traction involve prudent financial methods, and until a proper average allowance for depreciation has been arrived at they must expect nothing regular in the shape of dividends. As there is likely to be some

considerable divergence of opinion as to what sum is likely to be required for depreciation, we may perhaps quote from an article contributed to *Commercial Intelligence*, by a special correspondent, dealing with the motor-cab in Paris. The following are the "fixed daily expenses" of each cab, independent of the distance covered:—

	Fcs.	Cents.	s	d
Cleaning		50		5
Wear and tear of driver's uniform		60		6
Hire of Taximeter		50		5
Insurance	1	00		10
Stand-tax	1	00		10
Town-tax		15		1½
Incidental	1	50	1	3
	<u>5</u>	<u>25</u>	<u>4</u>	<u>4½</u>

while the following figures denote the working expenses of the cab for a distance of 100 kilometres (62½ miles):—

	Fcs.	Cents.	£	s	d
12 litres (2½ galls.) petrol	5	65	0	4	8½
Driver's wage	8	00	0	6	8
Oil and Grease		50	0	0	5
Upkeep of carriage-work	1	50	0	1	3
Upkeep of machinery	2	00	0	1	8
Depreciation	6	20	0	5	2
Tyres	6	00	0	5	0
	<u>29</u>	<u>85</u>	<u>1</u>	<u>4</u>	<u>10½</u>

Those among our readers who are at all interested in motor traction may be able to draw some useful comparisons from these figures, and, in any case, ventilation of the depreciation problem is to be desired, especially as it will have to be properly considered at the end of the year.

Audit Fees.

A short time since a correspondent forwarded us a list showing the amount of audit fees paid by some eighteen brewery companies as contrasted with the amounts of their respective share and loan capitals. Such a list is undoubtedly of interest from several points of view. It should be borne in mind, however, that an audit which entirely complies with statutory requirements is by no means the most useful form of audit that it is possible to conceive, and that in consequence most intelligent boards of directors prefer to arrange for what we may call the maximum audit at a fee proportionate to the work performed. At the same time it seems extremely difficult to understand how the audit of any brewery company with a capital of upwards of one hundred thousand pounds can be undertaken at a profit for anything like twenty guineas per annum. For so inadequate a remuneration it is obviously not to be expected that the auditor would perform any duties in addition to those which devolve upon him by statute.

Income Tax.

In reply to the inquiry of our correspondent "Law of Equity," we understand that it is the practice, in all cases where the person assessable for income-tax employs for domestic consumption any portion of his stock-in-trade, to require a sum representing a reasonable valuation thereof to be added to the assessable profits. Hotel proprietors, boarding-house keepers, and the like are, we believe, usually charged fifty pounds as representing the value of their board. A similar rule would doubtless apply to managers, although, of course, the amount of additional charge would be varied according to circumstances. Undoubtedly, however, a number of persons whose circumstances are similar to those cited by our correspondent do, in point of fact, escape the payment of income-tax.

Forged Certificates.

It occurs to us that it is not altogether profitable to discuss decisions of the House of Lords after the style of our correspondent "H. W. M.," whose letter appeared in our issue of the 1st inst., save with a view to further legislation. Perhaps our correspondent would care to draft out a clause which will, if passed, meet what he considers to be the equities of the case. Our legal contributor will deal with and explain the application of the judgment in the *Great Fingall* case in an early issue, and if in the meanwhile our correspondent will let us know precisely how he suggests the law might be altered, his proposition might, we think, be conveniently discussed at the same time.

The Auctioneers' Institute.

The members of the Auctioneers' Institute of the United Kingdom held their provincial meeting last week at Windsor on the 13th, 14th, and 15th inst., under the presidency of Mr. H. D. Buckland. The meeting this year is stated to have been the best attended that has been held since the foundation of the Institute.

The Bank Rate.

On the 13th inst. the Bank of England raised the minimum rate of discount from 3½ per cent. to 4 per cent. with a view to checking the serious drainage of gold that had been experienced owing chiefly to withdrawals for the United States, which in the previous week had represented £2,212,000 out of a total of £3,137,000. Whether the increase of ½ per cent. will produce the desired effect has, however, yet to be seen, for on the 13th inst., after the rate had been raised, a further four hundred thousand

pounds was withdrawn, this time in sovereigns, and unless the demand ceases, a further hardening of rates would appear to be absolutely essential.

Interest on Estate Duty. The question was recently raised by "A. W." as to whether interest on estate duty should be paid out of income, in view of the decision in *In re Fish; Lea v. Fish* (Accountant Law Reports, XXIII. p. 106). Our correspondent thinks that although this decision was given under the Act of 1894, and although in the Act of 1896 it is stated that interest on estate duty shall be recoverable in the same way as if it formed part of the estate duty; whereas under the 1894 Act it was stated that such interest shall form part of the estate duty, there is very slight ground for the change in treatment that has been adopted by several writers upon the subject. Among such writers, it may be mentioned, are Professor Dicksee, who in the *pro forma* examples worked out in Chapter XI. of his "Advanced Accounting" charges interest on estate duty against income; and Mr. Arthur F. Whinney, F.C.A., who adopts the same course in his article on Executorship Accounts in the "Encyclopædia of Accounting." We have not so far been able to trace a decision directly bearing upon the point at issue, but it seems to us to be sufficiently covered by the judgment of Mr. Justice Buckley in *In re Earl Howe's Settled Estates; Howe v. Kingscote* (Accountant Law Reports, XXIX., p. 61), in which his Lordship held that *prima facie* it was plain upon general principles that a tenant-for-life, whose income was increased by the postponement of the payment of duty, ought to bear the interest as the price of obtaining that postponement. During the time that duty remains unpaid it is clear that the moneys requisite for the payment of such duty remain part of the corpus of the estate, and as such are presumably earning income. Inasmuch as that income would naturally be credited to Income Account, it seems only natural that the income accruing due on unpaid estate duty should be debited to Income Account *per contra*.

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

Check-Figure System.

(To the Editor of The Accountant.)

SIR,—I should be obliged if any of your readers would give me particulars of the Check-Figure System. What is it? How is it worked?

I am told it is a sure preventive against errors in posting and additions, but no one appears to be able to give details.

Yours faithfully,

C. O. FILEY.

Newcastle-upon-Tyne, September 12th 1906.

[We have already invited communications upon this subject (*vide* p. 37), but there appears to be an undesirable amount of mystery about the whole matter. We cannot advise our readers to pay fancy prices in the dark.—ED. *Acct.*]

The Decision in Davis v. Petrie.

(To the Editor of The Accountant.)

SIR,—I should be very much obliged if you can give me information on the following:—A client of mine bought goods from — & Co. On the 18th July he receives a letter from a firm of accountants that — & Co. have executed a deed of assignment, and the letter signed by the accountant "for self and co-trustee" makes application for the debt owing.

On perusal of *Kemp's Mercantile Gazette* of August 8th inst. my client and I find the case of *Davis v. Petrie* (Times, 6th August), and it would appear from this that should my client pay the amount claimed by the trustee he may find himself in the unfortunate position, though I myself consider that when application is made by a trustee it should be paid. I take it that Afford was a trustee, but Davis was the trustee in bankruptcy, which would alter matters. In my client's case I presume that the accountant named is a trustee in bankruptcy, and therefore he would not be compelled to pay twice over.

Yours faithfully,

CORVUS.

[If — & Co. have executed a deed of assignment, the accountant named is presumably trustee under the deed. In view of the decision quoted, — & Co.'s debtors would be well advised not to pay the trustee without receiving a satisfactory indemnity in exchange.—ED. *Acct.*]

Cumulative Preference Shares.

(To the Editor of The Accountant.)

SIR,—I shall be glad if you will kindly give me an answer to the following:—In Pixley's "Auditing," 8th edition, p. 302, we read—

"Unless, however, it is expressly provided for in the private Act or Acts of Association, preference shares are only entitled to the preferential dividend out of the

profits of each year, and if there are not profits available for the payment of the full amount no part of the deficiency can be made good out of the profits of any subsequent year, or out of any other funds of the company."

Also we read in Dawson's "Lexicon of Liquidators," p. 239—

"*Prima facie*, where one class of shares is entitled to a dividend at a fixed rate in preference to another class, the dividend is cumulative; therefore where it is intended that the dividend should be non-cumulative the regulations should strictly prohibit the right, in the event of a deficiency in any year, to resort to the profits of subsequent years, or the undistributed profits of past years. . . ."

These two views seem to be entirely opposite, and I should be glad to have your opinion through the medium of your valuable paper.

Yours faithfully,

September 17th 1906.

DUNELM.

[Palmer's "Company Law," p. 60 (third edition) supports Mr. Dawson's view.—ED. *Acct.*]

Poor Rate Assessment.

(To the Editor of *The Accountant*.)

SIR,—A house is let at 5s. per week, the landlord paying all rates, taxes (including water), and doing all repairs. The rates are 7s. 6d. in the £, and the water rate 10s. per year. The Assessment Committee allow 20 per cent. for "statutable deductions."

Can any reader explain (in figures) the mode of arriving at the "gross estimated rental" and the rateable value?

Yours truly,
B.

September 17th 1906.

Form of Accounts for Local Authorities.

(To the Editor of *The Accountant*.)

SIR,—I see you have a letter in *The Accountant* of September 8th from Mr. Eckersley referring to the inadequacy of the financial statement required yearly by the Local Government Board from each Corporation and Urban District Council. As you know, I have had considerable experience in these matters. I wrote, in January last, a letter to the Secretary of the Local Government Board specially calling his attention to the matter which Mr. Eckersley particularly refers to; a copy of this letter I now enclose. I largely endorse what Mr. Eckersley says, and if Corporation Accounts are to be improved, and the statements required by the Local Government Board harmonised therewith, the accountancy profession ought, in my opinion, to be heard in this matter.

On the Departmental Committee it seems there are, out of eight members, five who are either officials or ex-officials of the Local Government Board, and only one practising accountant, Mr. Gane, your late President. As I wrote to the Local Government Board, I thought possibly they might have desired my evidence, but I suppose I showed too clearly *the bent of my views*. What, therefore, you are proposing to do *now*, in opening your pages to correspondents, may prove of vital importance in view of Parliamentary action by Mr. John Burns on behalf of the Local Government Board.

Yours truly,

GEO. SWAINSON, F.S.A.A., F.L.S., &c.,

Borough Treasurer.

Town Hall, Bolton, 18th September 1906.

[COPY]

Town Hall, Bolton.

15th January 1906.

Sir,—Enclosed I beg to forward the Returns in pursuance of Section 28 of the Municipal Corporations Act, 1882, and the Local Taxation Returns Acts, 1860 and 1877, for the County Borough of Bolton.

May I be allowed to say, in connection with *the accounts question* which has been referred by the President of the Local Government Board to a Special Departmental Committee, that, in my opinion, *these Returns* are on mistaken lines. For the reasons expressed at the Conference of Accountants at St. Louis, U.S.A., in 1904, I think the time has now arrived for the "Income" of the year for each municipality to be stated, and the "Expenditure" of the year to be also shown in these Returns.

The words "Receipts" and "Expenditure" as headings are altogether incorrect. They should be "Revenue" and "Expenditure," or "Income" and "Expenses"; *Payments or Disbursements* being the *correlative* of Receipts, and *not* Expenditure.

In the words of Dr. Cleveland, C.P.A., at the St. Louis Conference, "These Returns *ignore* the "fundamental distinction between Revenues and "Expenses on the one hand, and Receipts and Disbursements on the other. This confusion bespeaks an "utter disregard for the purposes of accounting, for "the problems of administration around which "accounts are to be classified and co-ordinated, and "for those well-established principles of finance and "administration with which accounting results and "financial reports must be harmonised."

Nowhere in these Returns is the financial position of the municipality of Bolton set forth, and it is impossible from them in any way to ascertain the solvency or otherwise of the corporation.

In the opinion of Mr. Wilmot, of the noted firm of accountants, Price, Waterhouse & Co., "*the precise financial position of the municipality at the close of the financial year should be shown*," and it is submitted that such a statement, including all debts due to and by the municipality, and its assets, should be shown on the lines contemplated by the recent enactment of the Town Councils (Scotland) Act, 1900.

I am sending a copy of this communication to your President.

I am, Sir,

Your obedient Servant,

GEO. SWAINSON,
Treasurer.

The Secretary,

Local Government Board,

Whitehall, London, S.W.

Reviews.

Terminal Cost Accounts.

By ANDREW GOW NISBET, C.A.

("THE ACCOUNTANTS' LIBRARY," Vol. XLVI.)

London, 1906: Gee & Co., 34 Moorgate Street, E.C.

Price 3s. 6d.

This volume is the second instalment of a series of works on Cost Accounts which have been announced in connection with "The Accountants' Library," which will prove of considerable utility to those who are desirous of seriously studying this somewhat neglected branch of accountancy work. Mr. Nisbet's book deals with Cost Accounts suitable to undertakings where definite contracts are entered into in which the costing is definite and terminating, such as engineers, shipbuilders, and the like. The ground that it covers is therefore not quite so untrodden as that occupied by the other volumes of the series, but, on the other hand, it represents probably that branch of costing which in general is most imperfectly dealt with in practice. The author's treatment of his subject is clear, although it errs perhaps upon the side of conciseness. In the chapter on the treatment of Shop Expenses and Establishment Charges in particular, we think that a good deal more might have been said with advantage, but on the whole the volume will be found of considerable value, especially to accountant students, who usually do not wish to be overweighted with detail.

Catalogue of the Books in the Library of the Institute of Accountants and Actuaries in Glasgow.

Glasgow, 1906: Wm. Hodge & Co.

The Library of the Glasgow Institute was established shortly after the granting of the Charter in 1885, and in 1899 was transferred to the present buildings at 218 St. Vincent Street. The first catalogue was not, however, issued until 1889, while supplements appeared ten years later and in 1901. The number of books in the Library at the close of last year was 3,910, and it will thus be seen that the preparation of this the second printed catalogue by Mr. John N. Mitchell, under the direction of the Library Committee, has been a work of some importance. In some 327 pages the contents of the Library are catalogued in alphabetical order under subjects, titles, and authors' names. Reference would, however, have been facilitated had the method adopted in connection with the Library Catalogue of the English Institute been followed, and distinctive founts of type employed for each of these three classes of headings. No inconsiderable proportion of the works are only remotely (if at all) connected with accountancy, but the Library is a very complete one, so that no complaint is likely to arise under this heading. The value of the catalogue is materially enhanced by the fact that sections of larger works dealing with particular subjects are indexed under these subject headings as well as elsewhere. For instance, there are references to no less than four authorities on the subject of the depreciation of horses, and the references to depreciation as a whole cover four columns of print.

How to become a Qualified Accountant.

By RICHARD A. WITTY, A.S.A.A.

London, 1906: Sir Isaac Pitman & Sons, Lim., 1 Amen Corner, E.C. Price 2s. net.

Many of our readers will doubtless consider that the only satisfactory way of becoming a qualified accountant is through the medium of articles to a member of one of those associations incorporated by Royal Charter, and to such the object of the volume now before us will not be very obvious. It goes without saying, however, that the expense that naturally attaches to articles makes this method of qualification prohibitive to at all events some who may be quite competent in other respects. To these Mr. Witty's handbook is addressed, and it will no doubt be found by them of considerable interest. It must not be supposed, however, that it is limited to methods of qualifying otherwise than by becoming a Chartered Accountant. The requirements of the various chartered

bodies are also set out, and indeed the volume contains a mass of information that will be of value to all accountant students.

The Foreign Trader's Dictionary.

By J. GRAHAM and G. A. S. OLIVER.

London, 1906: Macmillan & Co., Lim.

Price 3s. 6d.

Although perhaps too highly priced to command a very extensive sale, this volume will be found of considerable value to all engaged in foreign correspondence, giving as it does the equivalents in English, French, German, and Spanish, of a large number of business expressions divided under suitable headings in tabular form. No less than eight pages are devoted to technical terms connected with bookkeeping and accounts, and if the work as a whole may be judged from the completeness and accuracy with which this portion has been prepared, we have no hesitation in saying that it is of exceptional merit.

Receiverships.

By GEORGE ALEXANDER TOUCHE, C.A.

(From *The Journal of Accountancy*, N.Y.)

RECEIVERSHIPS form an important branch of accountancy in England, where receivers are appointed in one of two ways: either (a) by the Court *pendente lite*, or by way of equitable execution, or (b) in writing by a mortgagee.

A receiver appointed by the Court is an officer of the Court. The object of his appointment is to secure the preservation of property by bringing it under the guardianship of the Court. Such property may need protection from a variety of causes. It is not necessary that it should be in immediate jeopardy: the danger may be prospective and possible, as well as actual. The property may be the subject of conflicting claims, and the Court may think it unreasonable that it should be received or collected by any one of the parties pending the determination of their respective rights. It may be in the hands of those whose interests, although immediate, are only partial; or it may belong to those who are incompetent to deal with it. The discretionary jurisdiction of the Courts in the appointment of receivers is of the widest kind. Without the safeguard afforded, the issue of litigation, or the adjustment of rights, might be largely nullified by the deterioration, loss, or dissipation of the subject matter in dispute. Receivership appointments by the Court are almost co-extensive

with the range of cases where there may be danger to assets. They may include receivers for debenture-holders or debenture stockholders; for mortgagees; and for the protection of general creditors. Receivers may also be appointed pending litigation as to probate; for the displacement of executors and trustees on good cause being shown; and for the protection of the estates of infants or lunatics. They are sometimes entrusted with the charge of assets or affairs in cases between vendors and purchasers, tenants-in-common, life-tenants and remaindermen, in actions for specific performance of covenants, and in partnership disputes. To this list might be added cases where the directors of a company are in open disagreement, but such instances, as grounds for appointments, are rare.

The properties of which a receiver may be appointed include the rents and profits of real estate, and all personal estate which may be taken in execution at law, even although it may not be in any of his Majesty's dominions. Receivership appointments in writing by a mortgagee are limited to cases where a mortgagee has a right to enter. The Conveyancing Act of 1881 entitles such mortgagee to appoint a receiver of the mortgaged property, unless the right is expressly negated. The Companies Clauses Act of 1863, which authorised the creation of debenture stock by companies such as railway companies, and other companies incorporated by Act of Parliament, provided (Clause 25) that in case of default in payment of interest a receiver (or in Scotland a judicial factor) could be appointed, and prescribed how that should be effected, and the duties of the receiver. Trust deeds securing the debentures and debenture stocks of joint-stock companies now almost invariably contain equivalent provisions.

In actual experience, and especially in cases where the safeguarding or preservation of assets is concerned, it is often found that these are so involved or so much used in the conduct of some important undertaking or enterprise that the mere appointment of a receiver of such assets (however excellent theoretically) would be ineffectual, and perhaps paralysing and destructive. In real life the needs of the situation demand the exercise of powers largely exceeding those of a mere receiver. The preservation of assets involves carrying on the business, and the consequent sale of assets existing when the receiver is appointed, their replacement by other assets, and *their* sale and replacement again and again, so that the often valuable asset of goodwill attaching to a going concern may not be destroyed. It thus happens that the receiver is not infrequently also invested with the wide and far-reaching powers of a manager, and with all the consequent duties and responsibilities connected with the handling of undertakings in which special business aptitude is essential.

In cases where substantial assets are situated out of this country and at a considerable distance, as in a British Colony or South America, a deputy receiver, or, if necessary, a deputy receiver and manager, may be appointed by the Courts in England. In other cases the English receiver may be authorised to commence proceedings in the local Courts for the appointment of such local receiver and manager. But with a view to retaining, as far as possible, its control, the Court would prefer the appointment of an attorney or agent for the English receiver to either of the foregoing alternatives, if such appointment would suffice to meet the necessities of the case.

It will be seen that receiverships, with or without the incidental duties of manager, cover a wide range of affairs, requiring for their administration trained business capacity of a high order, a trustworthiness beyond question, and disinterested and impartial service. From an accountant's point of view, receiverships on behalf of debenture-holders of companies registered under the Companies Acts with limited liability are the most important, and I propose to limit my remarks to receiverships of this character.

Such appointments may be made in either of the ways mentioned. Even when the appointment is not originally made by the Court, but by the debenture-holder, or, if there is a trust deed, by the trustees for the debenture-holders, the tendency of modern practice among Chartered Accountants is to get the appointment confirmed by the Court.

Especially is this desirable if it is necessary to raise money for the purpose of carrying on the business, as the Court can give power to borrow in priority to debenture-holders, and can confer on the lenders the rights of a salvor. A receiver appointed by the Court has also, generally speaking, greater authority than one appointed by a mortgagee. For instance, to refuse to deliver property to a Court receiver, or to refuse him admittance to the company's premises, would constitute contempt of Court, as would also the levying of distress for rent, or execution on behalf of a judgment creditor. In each of the two last-mentioned cases leave may, however, be obtained from the Court to take the steps referred to. In the case of a receiver appointed out of Court, whose appointment had not been confirmed, his only remedy would be to bring a separate action to restrain a threatened distress or execution, or to obtain control of the company's property and assets.

Whether confirmed or originally appointed by the Court, the receiver is an accounting party, as it is necessary for him to prepare and submit his accounts to the Court (in form prescribed by the rules) at such intervals as may be directed, and to pay into Court the balances shown by

these accounts to be due from him. The accounts must be verified by affidavit, and properly vouched, and the parties chiefly interested will be entitled to attend the appointment for passing them at the expense of the estate, whilst any party to the proceedings may do so at his own expense.

The Court will appoint a receiver at the instance of a debenture-holder, secured by a floating charge, even though the principal is not immediately payable, and the interest is not in default, if it can be shown that the security is in jeopardy, or that the company seeks to part with its assets otherwise than in the ordinary course of business. Unless and until such appointment is made, the company may exercise its powers of borrowing and charging to the prejudice of debenture-holders.

The causes which lead to the appointment of a receiver of the assets and undertaking of a company frequently result in its liquidation also, although there are many cases where a receivership is desirable, pending some capital re-arrangement, but where no liquidation is required. If there is both a receivership and liquidation, the Court, in the interests of convenience and economy, and the absence of reasons for acting differently, favours the appointment of one person to both offices. Should there be uncalled capital charged to the debenture-holders, the advantage of this course becomes apparent. No receiver, nor even manager, can make a call, but a liquidator may do so, and must, if the position requires it. A receiver can only be empowered to take proceedings in the name of a liquidator to get in a call, but the liquidator, acting in both capacities, should be able to get in the call more expeditiously and cheaply.

The practice of dual appointment is based on convenience, and will be modified to meet special circumstances. For instance, if the assets appear unlikely to produce a surplus, after paying off the debenture charge, the Court would not remove a receiver in order to substitute a liquidator who sought to question the validity of the debentures. Neither would the Court be likely to remove the debenture-holders' receiver if the amount to be derived from calls were small.

In 1893, in an action brought by the British Linen Co. Bank, the writer had been appointed receiver of the South American and Mexican Company, a large trust company associated, prior to their failure, with the great Anglo-Spanish house of Murrieta. The company went into liquidation immediately afterwards, and the Official Receiver of the Companies Winding-up Department (Board of Trade), who had been appointed liquidator, applied to be appointed receiver also. In this case there were not only general assets, but also a great amount of uncalled capital to be got in. The Judge of first instance, following the established rule in cases where there is much

uncalled capital, made an order appointing the liquidator to both offices; but, on its being pointed out to the Court of Appeal that there was a large body of assets which could be most conveniently handled by some one who, through his ordinary business relations, had a knowledge of such securities which a Government official, however able, was without equal opportunities of acquiring, the order was varied, and it was directed that the writer should continue to act as receiver of these assets, leaving the liquidator to act as receiver of the uncalled capital.

Where the receiver is appointed by the debenture-holders or trustees in the exercise of their rights without the intervention of the Court, the Court will not interfere with such rights by displacing the receiver so appointed, or by appointing a liquidator in his place; nor will the Court, in such circumstances, refuse to grant an order giving the receiver for the debenture-holders liberty to take possession. The receiver should be what the law calls "an indifferent person." Save in some rare instances, it is desirable that he should be impartial and disinterested. In debenture-holders' actions the person proposed by the parties having the conduct of the proceedings is commonly selected, if unobjectionable. In cases of financial and commercial importance, the appointment is most frequently conferred on a well-known Chartered Accountant. As the duties of manager are often joined to those of receiver, it is obviously important that the selection should fall on a man having a working knowledge of business principles, and experience in the higher realms of finance; and who, consistently with his professional and other pursuits, can spare sufficient time for the due performance of the important duties of his office. A Chartered Accountant, from the nature of his profession, should be pre-eminently qualified to perform the multifarious duties that fall to a receiver, and it is on a recognition of this fact that the present practice has arisen.

The Court will not appoint a receiver and manager at the instance of the debenture-holders in some cases where special powers and duties have been conferred on a company for public convenience, such as a company under the Tramways Act of 1870, where the debenture charge is not allowed to interfere with carrying on the undertaking. In such cases a receiver only will be appointed, but the Court will appoint a manager of a railway company at the instance of a judgment creditor.

The Court will not appoint a receiver and manager for an indefinite period, but will make the appointment for a specific term, usually with certain restrictions and limitations, and with directions as to reporting progress to the Judge, and lodging accounts. As the practical effect of such an appointment is to make the property or undertaking over which the receiver is appointed pass into the

possession of the Court, the Judge to whom the cause is assigned, and to whom the receiver must go for directions, becomes, in fact, although not in terms, the governing director of the business for the time being. This is not a responsibility which Judges care to assume indefinitely. If the object of the receivership has not been achieved on the expiration of the period originally fixed, it is customary to extend it from time to time by subsequent orders, but the general attitude of the Court is one of discouragement to the long continuance of receiverships.

Unless, as in rare circumstances, the Court dispenses with security, the official status of a receiver appointed by the Court is not complete until the security is given. The amount of the security is fixed by the Court, and is usually twice the estimated value of the assets likely to come into the receiver's hands, when they consist of personal property of a movable nature. When the assets consist of real or immovable property, a valid sale cannot be effected by the receiver without the leave of the Court, and the security in such cases is therefore usually less than the estimated value of the property, particularly when the value is large.

The security must be given at the receiver's own expense, and is almost always in the form of a bond of a guarantee society. There are several important corporations giving these guarantees whose bonds are accepted by the Court. The premium varies in inverse ratio with the repute and standing of the receiver, 8 to 10 per cent. per annum on the amount of the bond being an ordinary rate in the case of well-known practitioners. This premium is payable by the receiver, and may not be charged in his accounts, but the fact of his having been subjected to this expense is not overlooked when the amount of his remuneration is fixed. As the estate is realised, and the proceeds are paid in, so the amount of security may be reduced by order of the Court.

In cases of urgency, the Court will sometimes give the receiver leave to act before security has been furnished, but, in such cases, the party at whose instance he is appointed has to undertake to be responsible for the consequences of his acts.

When the bond has been given, and the receiver is legally clothed with possession, anyone who seeks to disturb or interfere with the property of which he has been appointed receiver (even if he be a sheriff who executes process) is guilty of contempt of Court.

The manner and extent to which, in the winding-up of a company, or in bankruptcy, a receiver has to give way to provide for preferential payments has been the subject of two Acts of the Legislature, the second Act following a decision of the Courts as to the meaning of the first Act.

The first Act was "The Preferential Payments in Bankruptcy Act of 1888," which provided that, in the

distribution of the assets of any company, parochial and other rates, wages or salary of a clerk or servant not exceeding £50, and wages of labourers not exceeding £25, should, as between themselves, rank equally in priority to other creditors.

In 1896 Mr. Justice North decided, in the case of *Richards v. Kidderminster* (1896, 2 Ch. 212), that the Act of 1888 dealt only with preferential payments to be made by the liquidator out of the assets in his hands, and consequently did not override the charge of debenture-holders or other secured creditors.

It was this decision which led to the passing of the second Act—namely, "The Preferential Payments in Bankruptcy Act of 1897." That Act extended the Act of 1888, so as to give the claims of preferential creditors priority over the claims of holders of debentures or debenture stock under any floating charge to the extent to which the assets of the company available for the payment of general creditors proved insufficient to meet them.

Although the Acts relating to the subject of preferential payments are of comparatively recent date, the practice of giving protection to wage earners is supported by ancient precedent and modern usage alike. In countries like Spain, where the Roman law still holds, no less than in some of the States of the United States of America, and in Canada, the labour lien applies, so that workmen who have been engaged on railway or other works are entitled to a lien thereon for their wages, such lien being superior even to the claims of mortgagees. In this respect the principles which govern the modern practice represent no new development of democracy, but are really a return to the ways of ancient Rome.

It has been said that the first duty of a receiver is to receive. There have been receivers (mostly non-professional) on both sides of the Atlantic whose devotion to this rule has been chiefly manifest when the question of their remuneration was concerned. The remuneration of a receiver, when he is not acting as manager also, is usually fixed by way of a percentage on the amount collected, but the Court will take into account any extraordinary trouble or expense to which he may have been put in the performance of his duties, although such special labours have not resulted in any present cash receipts. When the receiver is also acting as manager, his remuneration is usually based upon the time expended by himself and his staff, and is charged at the ordinary professional rates. The remuneration is credited in the receiver's accounts as a payment, and deducted from the balance paid into Court.

While the primary object of a receiver is to realise and collect, it is often necessary, for the proper discharge of his duties and the protection of the assets entrusted to his care, that he should spend large sums of money. A

receivership frequently becomes necessary because all the working capital is exhausted, and the receiver finds himself faced, at the outset, by the imperative need of finding funds for a business whose credit is gone. Very often wages, on whose payment the continuity of the business depends, are due on the morrow of the appointment, and there is no cash balance out of which to pay them. In such circumstances the Court will authorise the receiver to borrow on the security of the property in his hands, and such borrowings will rank in front of the claims of the debenture-holders which he represents. But authority to borrow is not synonymous with ability to borrow. It is the business of the receiver to find a lender without becoming personally responsible for the money he borrows, and this is not always an easy task. Such borrowings are most frequently necessary where a receiver and manager is authorised to carry on the business in respect of which he is appointed.

The receiver is liable for any loss arising from his own carelessness, neglect, or wilful default, or the unauthorised delegation of authority or delivery of money or property to others; but he is not expected to be more careful of the receivership property than of his own. He is also personally liable for all debts which he contracts, unless there is a specific agreement with the creditors to the contrary, but he is entitled to be indemnified out of the assets for all such personal obligations properly incurred, and such indemnity ranks in priority to the claims of persons who have advanced money pursuant to an order of the Court. There is an exception to this rule of personal liability where he is appointed under a trust deed, the terms of which empower the trustees for debenture-holders to nominate a receiver and manager who is to act as and be the agent of the company. If a receiver so appointed continues to act after an order has been made for winding up the company, he becomes personally liable.

It not infrequently happens that a receiver has to carry on a business at a loss, pending realisation or reconstruction, and it requires great watchfulness lest the realisable value should shrink to a point at which it becomes insufficient to cover his personal responsibilities. Cases are by no means unknown where, in the vain hope of effecting an advantageous sale as a going concern, a receiver and manager, possessed of more zeal than discretion, has carried on a declining or unprofitable business for a protracted period, with melancholy consequences to his clients and himself. When he has been obliged, in the end, to resort to a forced realisation, he has found himself saddled with responsibilities in excess of the realisable value of the assets, and has not only had to go without remuneration (in itself a sufficient reflection on his business capacity), but he has had to discharge the indebtedness out of his own funds.

The position of a receiver is often difficult, and one that calls for great forethought and insight. To carry on a business at a loss may lead to serious consequences, but the forced sale of the same business may be equally or even more disastrous. It is easy to slaughter an estate by hasty and injudicious sale. The receiver may even see his way, by so doing, to satisfy the claims of the mortgagees on whose behalf he is appointed. But the duty of a receiver goes beyond the mere satisfaction of the claims of the debenture-holders. He ought to have the same desire to protect those whose claims rank after them. He is frequently in a position where he has to reconcile conflicting interests, especially where there is a series of charges of different ranks and values.

The receiver and manager is often confronted with the task of pacifying dissatisfied shareholders and aggrieved debenture-holders, to say nothing of the work of raising fresh money before it is possible for him to place the undertaking on a better footing with a view to avoiding liquidation or making a satisfactory sale. He may even find it advisable to demand an apparent sacrifice from the body whose interests he represents. In these circumstances the personal equation counts for much. The resourcefulness and financial connections of the receiver may greatly facilitate the provision of the necessary funds, while the weight of his authority may be the determining factor in securing a satisfactory arrangement of conflicting interests.

In every body of investors there are generally some whose one idea is to stand rigidly on their legal rights, and it may be the duty of the receiver to wean them from that statuesque but unprofitable attitude. For example, debenture-holders to the amount of £500,000, whose security consists of assets which may stand in the books at three times that sum, but which, for various reasons, might not realise more than £300,000 on a forced sale, may be well advised to reduce the face value of their security, and also, perhaps, the rate of interest, in consideration of the subscription by the shareholders of partly-paid shares in a reconstructed company, so as to provide funds for the re-establishment of the business. Shareholders could not be expected to assume this liability merely to improve the security of the debenture-holders. Some concession is required from them also, and may be advantageously given. When such a reconstruction has been carried through, the business may become profitable again, and, with more assets and steady earnings, the debentures, although reduced in amount, may be more valuable than before.

When large and important undertakings are concerned, it is often not feasible to sell them outright. They may sometimes be disposed of as going concerns; but in, perhaps, the majority of cases the choice lies between

reconstruction or a forced sale. The latter course should be avoided whenever possible. It almost inevitably means the displacement of labour, and the sacrifice of plant, machinery, trade connection, and goodwill. Whether regarded from the professional or any other point of view, reconstruction is the more satisfactory course. The saving of an industrial business from disaster means better value for its assets and a continuation of employment for the workers engaged in it.

Technically speaking, the reconstruction of a company does not fall within the province of a receiver, but it is often the only practicable thing for him to do, if the best interests of all concerned are to be promoted. In this connection he may render valuable service, for which the machinery of the Court would furnish no adequate remuneration. In these circumstances it is sometimes provided that the amount of his remuneration shall be dealt with by agreement among the parties concerned, or fixed by arbitration, instead of being settled by the Court on the ordinary basis.

The business with which a receiver and manager may have to deal are so varied that it is impossible to lay down specific rules for their guidance. An active professional experience has covered receiverships of limited companies owning railways in the Colonies and abroad, collieries at home and in the Colonies, tobacco plantations in the Far East, iron furnaces, steel mills, electrical engineering works, publishing and newspaper businesses, financial and investment trusts, theatres, breweries, manufacturing and trading concerns situated in Great Britain, Canada, Australia, South Africa, France, Spain, and Turkey.

The business of a receiver, like the business of accountancy, is world-wide, and may take him wherever money is invested or trade is established. Different laws may involve variations in procedure, just as different businesses involve variations in treatment, and the receiver must adapt himself to local conditions. But the broad principles on which all businesses should be conducted are of universal application, and are much the same all the world over.

A receiver usually continues to act until the office becomes unnecessary through the satisfaction of the claims of the debenture-holders by repayment, or by substituted security in a reconstruction or re-arrangement. He may retire earlier for reasonable cause, such as infirmity, in which case the costs of his discharge are borne by the estate. If he seeks to retire without reasonable cause, he must bear the cost of the change himself. He is also liable to removal for irregularity in his accounts, or gross dereliction of duty. A bankrupt is disqualified; a peer is regarded with disfavour. Men in both positions have privileges, although of different orders, which might interfere with the enforcement of the ordinary remedies. The

reasons which disqualify a peer might also be urged against the appointment of a member of Parliament.

The advantages of appointing Chartered Accountants to the important and responsible duties of receivers and managers of large enterprises have long been appreciated in England. Their experience and training in the science which has done so much to make possible the vast fabric of modern commerce and international exchange, by enabling every variety of transaction in trade and finance to be directed and controlled, give them a peculiar fitness for the complicated tasks with which receivers have often to contend. Skilled in accounts, familiar with commercial law and usage, acquainted with business of almost every description, and possessed of a knowledge of men and affairs, the members of the profession of Chartered Accountants have now attained in England the rank and confidence which they have long enjoyed in Scotland, and which the certified public accountants in the United States of America are securing with rapid strides. To the certified public accountants in America, as the profession is consolidated and its status is better understood, the important receiverships which are inevitable from time to time in an enterprising industrial community will doubtless become generally entrusted, with advantage to their clients and credit to themselves, and an important branch of business will pass into the hands of those who are most competent to deal with it.

Depreciation and an Auditor's Responsibility in Connection Therewith.

By J. P. BAINBRIDGE, Jr., F.I.A.V.

An essay written for the Incorporated Accountants Students' Society of Victoria.

THE subject of depreciation is one of the most interesting, complicated, and delicate with which the auditor has to deal—interesting because it is one of those subjects which take him out of the grooves in which auditing work usually runs and project him into the centre of the work and interests of men whose occupations and knowledge are widely different from his own; complicated because of the infinite variety of the articles which are subject to depreciation, and of the extent to which they are so subject; and delicate because of the danger there is of an auditor coming somewhat into conflict with the directors of his company on the question of the provision which it is proper to make for depreciation.

Depreciation is defined as "diminishing value" or a "falling in value," and the depreciation contemplated by the title to this essay is the diminished value of the assets of a business at the end of a period, as compared with their value at some previous date, usually at the end of the

previous fiscal period; and it is thought that the question is intended to be considered principally in relation to the assets of companies, as it is in these cases only that any serious responsibility on the part of an auditor arises.

Depreciation may be the result of:—

- (1) A fall in the market price at which the asset can be bought;
- (2) The lessened life of the asset, due to the use made of it, and the consequent wear and tear it has suffered, during the period under review; or
- (3) Some invention which in point of efficiency is so superior as to render the asset obsolete; and to these may be added
- (4) The gradual exhaustion of a wasting asset by the lapse of time, or by the value extracted from a source of supply which is not unlimited.

Before entering on a discussion of the subject of depreciation, it is necessary to make a distinction between fixed assets and floating or circulating assets, and the following definitions are offered as being sufficient for most ordinary cases:—

Fixed assets are those which are acquired for use in a more or less permanent form in carrying on the business of any particular undertaking.

Floating or circulating assets are those which are only acquired for the purpose of being disposed of again either in their original or in an altered form.

The business, consequently, looks for its profit to the turnover of its floating assets, and not directly to its fixed assets, which are only useful in so far as they contribute to the turnover of the others. The fixed assets do, however, by their service distinctly assist the profit, inasmuch as the turnover could not be maintained without them.

This distinction between fixed assets and floating assets is important, since it is in respect of fixed assets only that any difference of opinion arises. In the case of floating assets, the dictates of common sense, the principles of accounting, and the requirements of the law, all agree that depreciation of these, from whatever cause, must not be overlooked, but must be taken into account immediately.

The principal factors to be considered in determining the amount of depreciation to be provided are:—

- (1) The first cost of the asset.
- (2) The period of its probable life.
- (3) The probable cost of repairs and renewals during its life.
- (4) The value which may remain in the asset after it is discarded as unfit for its original purpose.

It is in consideration of points such as these that the accountant comes into close touch with the work of engineers, manufacturers, and other experts from whom his usual work is far removed.

If accurate information as to the first of the above factors is obtained, and reasonably accurate estimates as to the other three are made, the rate of depreciation for any new undertaking can be arrived at thus:—To the first cost (factor 1 above) add the estimated upkeep during the "life" (factor 3), and from the sum thus obtained deduct the residual value at the end of the "life" (factor 4). Then divide the result by the years of life (factor 2), and the quotient will be the annual sum to be written off.

If it be agreed to charge to revenue all renewals and repairs in the years in which they are incurred, the third factor may be omitted, and the problem will then be greatly simplified, and the chances of arriving at a correct result much improved.

Although in the case of a new undertaking a reasonable estimate of a proper charge for depreciation may be arrived at by the means just outlined, still depreciation, in the last resort, must be a matter of experience combined with prudent foresight.

Until the results of experience over a sufficient period have been collated, the provision to be made for depreciation is, as already stated, a matter of estimate and conjecture.

An ample experience of any particular class of asset, the results of the experience having been carefully and accurately noted, should furnish the basis for determining very closely the rate of depreciation. Inasmuch, however, as there is always a probability of something unexpected happening which may add to the normal rate of depreciation, it is well to make provision at a rate somewhat higher than the minimum indicated by normal experience.

Provision may be made by writing a regular percentage year by year off the balance of the account representing the asset. Since, of course, each writing off has the effect of reducing the balance of the account, this method is spoken of as a percentage on the diminishing value. In the opinion of the writer this method is probably the one employed in the great majority of cases, but he ventures to submit that unless its effect has been studied, and is fully appreciated, by all concerned, it is likely to lead to serious misunderstanding. It is suggested that a board of directors might instruct their secretary to write 10 per cent. off the Plant Account. The secretary does it in the only way that occurs to him, reducing the Plant Account by the amount of the depreciation each year, and this goes on for years without question. The directors, the while, are under the impression that they are providing for the complete writing down of their plant in ten years, whereas, under the method being employed, at the end of the tenth year there will still be 35 per cent. of the cost of the original plant standing on the books.

Because the provision of a percentage on the diminishing value may thus lead to confusion, it is suggested that the better plan would be to calculate the percentage on the total

cost of the asset, as contemplated in the description previously given of the method of arriving at an estimate. If this be done, it will probably be wise to credit the annual depreciation to a Depreciation Reserve Account, so that the Asset Account may always furnish the cost to date without difficulty. Such a Depreciation Reserve Account, however, should never be shown as a Reserve Fund on the liabilities' side of the Balance Sheet, but the amount of the Asset Account should be shown, less the amount of the reserve.

In working this method, there is one point which will require to be carefully watched by both bookkeeper and auditor. If ten years be the period over which the asset is to be depreciated, care must be taken that at the end of the tenth year an amount equal to the first cost of the asset is transferred from the Reserve Account to the Asset Account; and if additions have been made to the asset and charged to the Asset Account, similar adjustments must be made as required in subsequent years, so as to write out of the Asset Account costs which have been fully provided for.

In some large concerns it is the custom in connection with such accounts as Plant, Furniture, and the like, in addition to writing off annual depreciation, to charge the accounts with interest. In the case of a lease this practice is, of course, only proper, as one expects a leasehold to repay every penny expended upon it, with interest, and accordingly interest should be charged. But in the case of assets acquired solely for use, and for the sake of the profit (as distinguished from interest) to be made by their use, it is suggested that there are no very substantial reasons theoretical or practical, for first charging the asset with interest and then, of necessity, writing off a larger amount for depreciation; whilst there is the objection that under this system the charges against revenue become heavier as the years go on; and as the charges for repairs may also be expected to become heavier concurrently, the system is not a satisfactory distribution of the burden of depreciation and upkeep over a term of years.

When dealing with assets which will be subject to depreciation, great care should be exercised to see that the assets are classified according to their liability to depreciate, and the following points may serve to indicate more exactly what is meant by this classification. For example, the values of land and buildings should not be combined in one account, since the buildings must depreciate, whereas, under normal conditions, the land may be expected to appreciate. Neither should the value of wooden and iron buildings be included with those of brick or stone, as the respective rates of depreciation will materially differ. Nor should heavy machinery, such as engines and boilers, be charged to the same account as movable plant and tools, as the depreciation of the latter will be much more rapid than that of the former.

Coming to the portion of the subject which deals with an auditor's responsibility in connection with depreciation,

one is inclined to make use of the truism that his duty in this connection is the same as in connection with other departments of his audit—viz., to see that the Balance Sheet to which he gives his certificate is in fact a full and fair one, presenting a correct view of the position of the company, or, if it is not, to see that he indicates unmistakably in what respects it does not come up to that standard. Doubtless, however, it is not the intention that this portion of the subject should be put aside thus lightly.

The proposition that one-half the value of a Balance Sheet consists in the correct statement of the assets, and the other half in the correct statement of the liabilities, cannot be questioned; and any Balance Sheet which departs in the smallest degree from this standard of perfection loses something of its full value.

Our subject only requires that we should consider the correct statement of the assets.

If we imagine the case of a manufacturing business which has laid in a new plant, and has been working for 12 months, during that time providing out of revenue what was necessary for ordinary upkeep, I think it will be admitted that from no point of view can the plant at the end of the twelve months be worth what it cost.

It could not, of course, under ordinary circumstances, be sold for anything like the same sum, and the various parts cannot have the same period of usefulness before them as they had when first installed.

Accordingly the asset is not worth its cost, and any Balance Sheet at the end of the 12 months which states it at its original cost is, to the extent of the undisclosed depreciation, incorrect.

The object of this essay is to allege and maintain that the auditor should not give an unqualified certificate to such a Balance Sheet.

The opinion of Mr. Adam Murray, F.C.A., a leading English accountant and an author of accountancy works, is quoted with approval by Professor Dicksee in "Auditing," as follows:—"Accountants would hesitate, or indeed refuse, 'to sign such a Balance Sheet, inasmuch as it did not 'represent the true position of the company. Having had 'experience of wear and tear and depreciation in various 'forms, their influence should be used to secure adequate 'deductions, in order that Balance Sheets may be accurate, 'so that objection could not be taken to them.'" And the present writer humbly accepts these views, as embodying the correct standard for an auditor in this matter.

The failure of many Victorian accountants to conform to this standard has, it is submitted, to some extent at least, tended to diminish the value of an audit in the eyes of many business men.

It has happened more than once in the case of companies that had effected a writing down of values which should have been made years ago, that the chairman has come

before the members with the statement that the Balance Sheet then presented to them was the first correct one which the company had issued for years. Yet these incorrect Balance Sheets had been certified to by well-known accountants, and no qualifications whatever had been added to their certificates.

A statement such as those referred to would seem to be one of the severest condemnations possible of the auditors of the companies concerned, and yet so poor is the opinion of the use of an audit—in this department, at any rate—that neither directors, shareholders, nor auditors seem to have been conscious of any shortcomings.

A further evidence of the opinion generally held as to the limited scope of the average audit is to be found in the fact that no man, taking up the Balance Sheet of a somewhat unknown company for the purpose of looking into its value from an investment point of view, places much reliance on the values of the assets as stated therein, but wants to test these for himself. One does not object to his caution in satisfying himself, but jealousy for the profession leads one to object to his at once assuming that he cannot place much reliance on the Balance Sheet; whilst at the same time one admits that he has justification for his attitude.

It is difficult to find any excuse for the auditors who treat the subject of depreciation as an utterly negligible quantity, and their action is far from being in the interests of their profession; but in justice to them it should be said that in the instances referred to the position of the companies has been thoroughly well understood by all closely connected with their management. But the position has not necessarily been understood by all for whom the certificates were given, and, of course, even if everyone concerned did know that the Balance Sheets were incorrect, that would not justify the auditors in certifying that they were correct.

In dealing with this part of the subject it has hitherto been considered from the point of view of auditors' past failures to fulfil their responsibilities in connection with depreciation, and the bad results flowing from those failures, that being, perhaps, one of the best methods of indicating what those responsibilities are.

It may now be considered from a positive point of view, and the auditor's responsibility may be said to arise under three heads:—

(1) *Education.*

We are entitled to assume that he is himself well grounded and informed on the subject of depreciation, and he should use his knowledge and experience in educating his clients on the subject, and leading them to form sound views concerning it.

(2) *Influence.*

He should use all the influence which his expert knowledge, his experience, and his confidential relations give

him to see that the practice of his clients in this matter is based on sound and conservative principles. In other words, he should take active measures to see that the importance of providing adequately for depreciation is put before his clients, and that they do not accept blindly any of the specious arguments frequently made use of by directors when circumstances are such that it does not suit their purposes to make due provision for depreciation.

(3) *Certification.*

Having failed to get his views adopted, he must consider the position with a view to reasonably satisfying himself that the value of the assets is overstated. If he can obtain a valuation, well and good; if not, in a case where fair provision had been made in the past he might not feel justified, on the first occasion of failure, in publishing the opinion that the values were overstated; but if the failure continued, he could probably feel sufficiently confident after two or three years to qualify his certificate. If, however, the directors express a definite opinion as to the values, the auditor must not lightly set it aside, but must have very good grounds for his action before taking so extreme a step.

The auditor's responsibility has now been stated under the headings of Education, Influence, and Certification. Whilst, however, it is thought that most auditors will agree with this statement, it should be added that the third heading alone is the one under which legal responsibility arises.

Having arrived at the position that the certificate should be qualified, the question arises as to what is to be the nature of the qualification. Is it sufficient to point out in a general and unobtrusive manner that depreciation has not been provided for, or that only a small amount has been set aside for that purpose? It is submitted that this is not sufficient, but that the auditor should commit himself to a definite statement of opinion, that the assets appear at an over-valuation by reason of the neglect to provide depreciation; and the following are the grounds on which this view is held, viz.:—

- (1) A statement that depreciation has not been provided refers, on the face of it, chiefly to the Revenue Account, and the fact that it also affects the Balance Sheet might easily be overlooked by many shareholders. But the auditor's certificate refers chiefly to the Balance Sheet, and not specifically to the Revenue Account at all; and consequently any qualification of the certificate should be so expressed as to show its bearing on the Balance Sheet, and not on the Revenue Account.
- (2) It is thought that a statement that depreciation had not been provided might be held to be one of those statements which, while not giving shareholders definite information, might still lead them to

inquire and seek information as to the values of the assets. As to this, the following passages from Lord Justice Lindley's judgment in the *London and General Bank* case may be quoted:—"A person whose duty it is to convey information to others does not discharge that duty by simply giving them so much information as is calculated to induce them, or some of them, to ask for more. Information and means of information are by no means equivalent terms. . . . I will add that an auditor who gives shareholders means of information, instead of information, in respect of a company's financial position does so at his peril, and runs the very serious risk of being held, judicially, to have failed to discharge his duty."

This finishes the consideration of our subject, and in conclusion it should be stated that all detailed description of the various methods of writing off depreciation has been purposely omitted, in order to keep the essay within the prescribed limits. Such descriptions are furnished very fully in several of Professor Dicksee's works, and every student will be familiar with them.

Stockbroking in India.—III.

Bombay.—The Parsee Broker.

By GEORGE CECIL.

ALTHOUGH not unlike his Anglo-Indian and Hindu *confrères* who adorn the financial circles of India, the Parsee broker of Bombay differs from these native brokers to be met with in Calcutta broking circles. He is gifted with a suavity of manner all his own, and he is far more industrious than are the European brokers who ply their calling in Bengal. No less trustworthy than the Aryan brokers who congregate in Clive Street, Calcutta, he numbers amongst his clients many English and native customers, including his fellow Parsees. In fact, the latter community is quite the richest in India's western capital, and the business of a wealthy Parsee is, therefore, well worth obtaining. Indeed, compared with the Mahomets, Ghoses, Bhoses, and Lal Dasses, the Jeejeeboys, Jamjeeboys, and Chuckerbutties, and also the innumerable sun worshippers whose names terminate in "wallah," have infinitely more important buying and selling orders to give than has any other description of native. The Government officials of Bombay also are occasionally open to a mild flutter, and the brokerage in connection therewith goes into the breeches pocket of the Parsee broker. The last-named, unlike the Mahawari element, wears trousers, though of a cut which would cause a London tailor to weep bitter tears.

It will perhaps interest the readers of this journal to follow the Parsee broker through his day's work and play. Like the lark, he rises early and, perhaps, rides a bicycle for an hour or so before breakfast. At the feast in question he partakes of tea, bread, and an unsavoury compound consisting of boiled rice and what appears to be stewed cats' meat. Having completed—or "put away," as the vulgar have it—his repast, he attires himself in his business suit. The garments alluded to consist of a long clerically constructed frock-coat without lappels, and the accompanying pantaloons. On his head he wears, not a hat, but an arrangement of black cardboard which is not unlike a coal-scuttle. It should be added that in the summer his apparel is made of white drill, whilst in the winter black or parti-coloured cloth takes its place. Patent leather shoes provided with elastic sides and white bone, or, if he is rich, mother-of-pearl buttons, add the finishing touch to a costume which causes him to closely resemble an Eurasian missionary. "Shanks' mare," varied by the hired gharri (cab), will convey him to the offices and residences of his *clientèle*; should he be a person of opulence he will possess a neat brougham, which will be drawn by a "waler"—i.e., a horse imported from Australia. If the Parsee broker is too poor to hire a wheeled conveyance, and too proud to walk, he will seat himself in a palkee, a vehicle which is not unlike a packing-case dashed with sedan-chair and crossed with dust-bin and butter-churn. Being wheelless, its stomach rests on the ground when about to be entered by the hardy *voyageur*, and from its sides protrude handles, whilst the motive power is supplied by four coolies (porters). A journey by means of the indigenous palkee results in the sufferer being violently sea-sick, unless his interior arrangements are of cast-iron; the Parsee broker, however, suffers no such inconvenience, a circumstance which is not surprising, since the Aryan in question is but half civilised, and exceedingly easily satisfied. At the conclusion of his day's labours he disports himself at cricket, or takes a walk. He does not patronise golf, though he is sometimes a good billiard player. In all probability he will be a member of a Parsee club, where, should he be of a literary turn of mind, he will extend a welcome to the imported English papers, as well as to those of native origin. Of an evening he goes for a drive, and occasionally, like John Gilpin, he bestrides a prancing steed, but the latter form of exercise is but seldom indulged in by him; for even when

" pacing o'er the stones
With caution and good heed "

he does not feel comfortable.

As in Calcutta broking circles, shares ascend and descend in value by a rupee at a time, varied by four annas. The vexatious "eighth," "sixteenth," and "thirty-

seconds" do not, therefore, worry the brain of the Bombay broker. And this, so rude people say, is just as well.

Bidden Reserves.

(From *The Manchester Guardian*.)

THE subject of hidden reserves as it relates to public limited companies is one of considerable importance to investors. Whenever a company is successful enough to pay a reasonable dividend upon its share capital the first consideration to occupy the minds of prudent directors is the way in which any further balance of profits at their disposal should be used in the building up of a reserve fund sufficient for the particular company's circumstances, and not until such reserve fund has attained certain dimensions will they, as a rule, consider the question of an increased dividend. Such a course is entirely commendable. By strengthening the financial position of the company and making the prospect of a regular dividend more assured it benefits each individual shareholder, and as in this case the amount put to reserve is shown in the accounts, and is known to all interested, it has its effect on the "markings" shown on the share list. It is when a company begins to build up a reserve fund which is not disclosed to the shareholders or shown on the Balance Sheet that the matter enters the region of controversy. As no Balance Sheet, at any rate of any but the smallest concerns, can ever exactly represent the position of affairs, the tendency is, as a rule, to keep to some greater or lesser extent on the right side; and it may, therefore, be taken that successful concerns, or all that can afford to do so, always have something "up their sleeve," and that the real position is always somewhat better than that disclosed by the Balance Sheet. This so much "up the sleeve" really represents, as far as it goes, hidden reserve, and it is therefore necessary that directors should have some latitude and discretion in the matter.

But the phrase "hidden reserves" really implies a position in advance of this. It is understood to mean that after the Balance Sheet has been prepared on the usual lines, and the actual net profit ascertained, a definite sum is deducted therefrom and placed to a secret reserve fund which is not disclosed to the shareholders, the net profits shown in the accounts being those remaining after the deduction of the amount so allocated to reserve. There are several ways in which this may be done. Home-trade houses may, after taking stock on the usual system of cost price or market value, whichever is the lower, deduct a further percentage or round sum. Banks, as is pretty well known, write down the amount of office furniture or of

bank premises to a figure far below the real value. Some companies have in their articles of association given powers to the directors to set aside out of profits sums which are not disclosed to the shareholders and are placed to an internal reserve, the assets or investments by which they are represented being omitted altogether from the Balance Sheet and being known only to the directors and auditors. In some classes of business, notably banks and insurance companies, the custom of having hidden reserves is so strong that shareholders would have legitimate cause for complaint if they proved absent, and in view of the large losses of an exceptional character which such concerns may at any time have to face hidden reserves are not merely advisable but really necessary.

An attempt has been made recently by a large manufacturing company at Birmingham to carry the position a step further. They wished to have power not only to build up a fund in this way, but also to make special payments from it, also without disclosure to the shareholders. A shareholder, however, contested their right to this power, and on trial the Court decided that no such power could lawfully be granted in the articles of association. It is understood that an appeal is to be made from this judgment, so that comment would be out of place here, but it may be remarked that, while such powers might be useful to directors and in some cases beneficial to the company by providing a secret "war chest" or fighting fund, one can easily understand the reluctance of the Court to extend the powers of directors to such an extent.

Of course the objection to hidden reserves is that a shareholder who wishes to realise his holding is ignorant of the actual position of his company, and does not obtain the price for his shares that he would get if the additional assets possessed by the company were known. Another objection is that hidden reserves may be used to gloss over bad years, and so bolster up bad management or declining business. On the other hand, it must be remembered that regular dividends have great effect in stiffening share quotations, far more than any question of a company's assets, and in so far as reserves contribute to this result each shareholder benefits. But the real purpose of secret reserves is as far as possible to put limited companies in the advantageous position of private traders as regards non-disclosure at critical times of information which might be useful to competitors and react detrimentally to the business of the company. Used with discretion and without excess they add stability and work for the permanent benefit of the concern, and though they may sometimes be dangerous in the hands of an unscrupulous board, that is less an argument against them than in favour of electing directors in whom confidence can be reposed.

Bills of Exchange (Crossed Cheques) Act, 1906.

(6 Edw. VII., c. 17.)

AN Act to amend Section 82 of the Bills of Exchange Act, 1882. [4th August 1906.

Be it enacted, &c.

1. *Amendment of 45 & 46 Vict., c. 61, s. 82.*—A banker receives payment of a crossed cheque for a customer within the meaning of Section 82 of the Bills of Exchange Act, 1882, notwithstanding that he credits his customer's account with the amount of the cheque before receiving payment thereof.

2. *Short Title.*—This Act may be cited as the Bills of Exchange (Crossed Cheques) Act, 1906, and this Act and the Bills of Exchange Act, 1882, may be cited together as the Bills of Exchange Acts, 1882 and 1906.

Meetings for the ensuing Week.

Tuesday—INSTITUTE OF CHARTERED ACCOUNTANTS.—General Purposes Committee, at 3 p.m.

Wednesday—CHARTERED ACCOUNTANTS' BENEVOLENT ASSOCIATION.—Executive Committee, at 3 p.m.

THE CENTRAL ASSOCIATION OF ACCOUNTANTS.—We extract the following from *The Times*:—The President and Council of this Association entertained a large gathering of members and friends at a garden party and conversation held in the gardens of the Royal Botanic Society, Regent's Park, on Saturday. Mr. F. C. Morgan (President), in a short address, said the Association was but in its infancy, but he could congratulate the members upon a very promising beginning of its career. It was not the occasion to enter upon abstruse questions of accounts and audit; the opportunity for explanation of his views in relation to these subjects would arise later. The Council would spare no endeavour to make the Association worthy of its name, working in no spirit of antagonism to other institutions and with no desire to encroach on existing rights. The entertainment included scenes from "Twelfth Night," presented by members of the Shakespeare Reading Society, a selection of music by the Anglo-Viennese Bijou Orchestra, and a vocal concert under the direction of Mr. D. Smith. The Year-Book of the Association, containing bye-laws, programme of lectures, examination papers, &c., is in course of publication.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, Sept. 14th, was 137, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 68; Deeds of Arrangement registered, 69. The respective numbers in the corresponding week of last year were: Bankruptcies, 78; Deeds of Arrangement, 63—total, 141; being a decrease of 4. The total number of commercial failures recorded during the 37 weeks of the present year is 5,935; the total number recorded in the corresponding 37 weeks of last year was 6,314, showing a decrease of 379.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, Sept. 14th, was 134. The number in the corresponding week of last year was 147, showing a decrease of 13. The total number filed during the 37 weeks of the present year is 5,405; the total number filed in the corresponding 37 weeks of last year was 5,935, showing a decrease of 530.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, Sept. 14th, amounted to £1,611,724, by way of addition to £3,112,754, previously issued by the same companies. The amount registered in the corresponding week of last year was £1,932,684, showing a decrease of £320,960. The total amount registered during the 37 weeks of the present year was £60,839,398 (in addition to the issues in previous years by the same companies), as compared with £58,702,345 for the corresponding 37 weeks in 1905, showing an increase of £2,137,053.

The will of Mr. John Hudson Smith, F.C.A., 42 Apsley Road, Clifton, Bristol, Chartered Accountant, has been proved. He has left £1,700 to charitable institutions and liberal bequests to servants and employees. The estate is of the gross value of £35,400 3s.

Bank Rate of Discount.

April 5th 1906	..	..	..	..	..	3½%
May 4th ..	..	..	..	..	..	4%
June 21st ..	..	..	..	..	..	3½%
Sept. 13th ..	..	..	..	..	..	4%

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TABLE "A."

A reprint of the new Regulations
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Leading Articles.

The Companies (Winding-Up) Report.—I.

THE Fifteenth General Annual Report by the Board of Trade under Section 29 of the Companies (Winding-up) Act, 1890, which we reproduced in these columns last month, would be an extremely unexciting document were it not for the announcements made by the Secretary of the Board in that which is nominally the Report itself, but is generally

regarded as a mere formal preface thereto. In most years it is the Report of the Comptroller of the Companies Department which is of chief interest, whereas upon this occasion interest is almost entirely confined to the Report from the Secretary to the President of the Board of Trade, to which the Comptroller's Report is an annex.

Following the lines of his predecessors, Mr. LLEWELLYN SMITH makes the usual futile attempt to show that the Winding-up Department is run at a profit. It would not require any very exhaustive inquiry into the manner in which his figures have been compiled to altogether dispel this impression; but, apart from that and taking the figures as they stand, it is clear that—at all events, since the 31st March 1896—the Department has been run at a heavy loss, although (owing to the accounts being framed upon a cash basis instead of a revenue basis) the results of separate years are very unequal, varying between a surplus of £2,430 for 1902-3, and a deficit of £5,682 for 1896-7. Bearing in mind that the Department receives interest on something like half-a-million sterling, creditors' moneys which it has in hand, and that it charges $2\frac{1}{2}$ per cent. upon all such moneys as pass through its hands, one would have thought that a more satisfactory financial result might have been arrived at, even without taking into account the heavy fees which the Board of Trade charges. The truth of the matter is, of course, that for several years past it has been impossible to find sufficient work to occupy the expensive staff that was got together in 1891 and 1892, and although that staff has been since considerably reduced, it is still unnecessarily large, and in consequence unduly expensive.

It is satisfactory to observe that the Board

of Trade has already caused a Bill to be drafted consolidating the Companies Acts, 1862 to 1900. As a preliminary step towards the undertaking of this almost colossal task this can hardly be regarded as premature. For obvious reasons, however, it would be ridiculous to ask the Legislature to pass a codifying Act and to then straightway proceed to introduce further measures for the amendment of the existing law. If the codifying Act is to serve any useful purpose, let us at least get all the company amendment that is upon the board passed first, and then frame the measure to bring all the then existing company law into one single Act.

There is something a little humorous about the Board of Trade's belated discovery that Table A, which has been without revision for over forty years, has become out of date and little adapted to modern requirements. Doubtless the Board, like many others, had forgotten all about the provisions of Section 71 of the Companies Act, 1862, which empowered it to make such alterations in these *pro formâ* articles as it might deem requisite from time to time. The Board's attention to this section was doubtless directed by someone upon or connected with the Committee that has recently reported, for after forty years we now find that not merely has a new Table A been drawn up, but, without waiting for it to be seriously discussed by business men and company lawyers, the Board has issued a *Gazette* notice bringing the new set of articles into force as from the 1st prox. As we have already mentioned in these columns, the new Table is a material improvement upon the old one; but, however that may be, it is difficult to justify the precipitance with which they have been rushed into practical effect without any opportunity for criticism, or even consideration,

being afforded, more especially when this new attitude is contrasted with the supineness of the past generation or so.

The announcement that a Bill has been prepared carrying out the whole of the recommendations made by the Committee appointed by the Board, under the chairmanship of Mr. J. G. BUTCHER, K.C., to inquire into the methods of bond investment companies is satisfactory, in the sense that it is always satisfactory to find a Government Department acting upon the advice of a Committee that has carefully considered and reported upon a subject that has been referred to it. The subject is, of course, in this instance one of interest only to a very limited class, and the Bill is thus not likely to attract much public attention. Our own view is that the majority of these particular undertakings might be suppressed altogether without being seriously missed; but, so long as they can be compelled to carry on business upon a sound financial basis, so drastic a treatment would be obviously unnecessary.

Coming now to the Report of the Comptroller of the Companies Department on the general working of the Companies (Winding-up) Act, 1890, for the year ended 31st December last, we cannot but observe that this official appears to have concerned himself more with the formation of new than with the liquidation of old companies. We have already pointed out, however, that the Department has for some little time past been suffering badly from a want of work to do; and, that being so, it is perhaps just as well—as we have to pay for the expensive machinery of this Government Department—that its functions should be extended in the direction indicated. When one bears in mind, however, that in the course of last year only 89 companies were wound up

by order of the Court, and in 37 of these the Official Receiver was not appointed liquidator, it must, we think, be admitted that a total expenditure estimated at £24,656 for the year ended 31st March 1906 seems a little excessive.

It is of interest to observe that the Board of Trade exercised the power vested in it under Section 21 of the Companies Act, 1900, to appoint an auditor in default of appointment being made by the company in general meeting, in four cases. We see, however, no reason why the names of the companies and the names of the persons appointed as auditors should be withheld. Such information would undoubtedly be of general interest, and it is, we think, most undesirable that even so limited an amount of patronage as this should be invested in a Government official without the responsibility necessarily involved in publicity being enforced.

Accountants' Examination Subjects.

CONSIDERABLE interest attaches to the announcement which we were able to make in our issue of the 15th inst., that the General Examining Board of the Scottish Chartered Societies of Accountants had issued a new syllabus of examinations which would come into operation after the conclusion of this year.

With the changes in the Preliminary Examination we need not specially concern ourselves. Either Latin, French, or German will now be made a compulsory subject, but this cannot be regarded as serious, in that probably all other examinations of a similar character have required some knowledge of at least one language, ancient or modern; while the total of six

subjects, of which four are compulsory, is certainly not excessive.

In the Intermediate Examination it is announced that the Algebra paper will include "annuities certain," and Paper No. 4 "précis writing" along with "correspondence." In Scotland, of course, where pure accountancy work is scarcer, a knowledge of actuarial science is far more important than in England—and, indeed (as our readers will remember), the full name of the Glasgow Institute is "The Institute of Accountants and Actuaries in Glasgow"—but although for ordinary purposes professional accountants rarely require to employ calculations of an actuarial character, there can be little doubt as to the value upon occasions of a good knowledge of mathematics that has been kept free from rust, and it is for this reason that we have often suggested the desirability of the inclusion of such a paper in the Intermediate Examination of the English Institute. With regard to the paper on Correspondence, which is now to include précis writing, there can, we think, be no question as to the advantage that would be gained by most English accountant students from a serious study of these subjects. A very large proportion of those who are expert book-keepers and good audit clerks have absolutely no idea of how to draft a report or to take down minutes of a meeting. Nothing, of course, creates a worse impression than the issue from an accountant's office of an ill-worded and perhaps even ungrammatical document, and it certainly requires something more than the Preliminary Examination to guard against these defects, for it is not until some technical knowledge has been acquired that it is possible for the subject of literary style to be seriously studied from an

accountant's point of view. The addition of such a subject to the Intermediate Examination of the English Institute would doubtless be unpopular among students, but we entertain no doubt that in the long run the advantages that it offered would be duly appreciated all round.

Turning to the Final Examination, it is of interest to note that the principles of Cost Accounts and statements for income-tax returns and claims are to be included in Papers Nos. 5 and 8 respectively. Neither of these is, of course, a new subject with the English Institute, and, indeed, a certain amount of knowledge in respect of both is required even of candidates for the Intermediate Examination; but the amount of knowledge has always been uncertain and spasmodic—a practice which certainly does not encourage regular and systematic training. The Principles of Cost Accounts, moreover, represents a far more satisfactory examination subject than mere odds and ends of questions (if we may be excused the term) dealing with points that have suggested themselves to the examiner in connection with some one particular concern. The enumeration of a subject, moreover, as part of the heading of a paper indicates—or at least should indicate—that at least one question upon that subject will be asked, and that therefore it is worth while to get the subject up; whereas under the system at present obtaining in England the chances are, if anything, against a single question being asked upon Cost Accounts, and not overpoweringly in favour of an income-tax question being set.

The General Examining Board of the Scottish Societies was established in March 1893, and since then somewhat numerous changes have been made with a view to enhancing the value

of the examination test. We do not altogether approve of the system of passing the Final Examination by instalments that was inaugurated a few years since; but, however that may be, it must at least be admitted that a very decided interest is taken in its work by the Examining Board. The English examinations, which date from some ten years earlier, are still for all practical purposes upon the old lines. The subjects remain unaltered, save that instead of there being one paper for Bookkeeping and another for Partnership and Executorship Accounts, we have now two papers on Bookkeeping, one of which is supposed to include Partnership Accounts and the other Executorship Accounts—a supposition which is not always justified in fact. Another alteration effected in June 1884 was the abolition of the two papers for the Intermediate Examination—Bankruptcy and Company Law and Mercantile Law and Arbitrations and Awards; while a third was to give up the attempt to place all candidates in order of merit and to reserve that for those occupying a place in the honours list. These trifling alterations, however, are not of recent date, and represent apparently the only improvements the English Examination Committee have thought of. We venture to think the list of books recommended to students—which remains practically the same as when first issued—should be brought up to date. Another long-standing grievance on the part of candidates is, of course, the long time taken by the Examination Committee in marking papers before announcing results. So long as it was understood that the whole of the work of correcting papers was performed personally by the examiners, who were members of the Council and accountants in

active practice, there was, of course, much to be said in favour of the contention that these examiners must be allowed to perform their work more or less in their own time; but now that the examiners are allowed to employ anonymous assistants, this argument can no longer be regarded as possessing the same force.

The Incorporated Accountants' Conference.

TO celebrate the twenty-first anniversary of the incorporation of the Society of Accountants and Auditors its Council have arranged a Conference in London next week which will present several features of interest, the more so as these Conferences have hitherto been held in one or other of the provincial cities. The proceedings will open at the Cordwainers' Hall, 7 Cannon Street, E.C., on Thursday next, the 4th prox., at 10.30 a.m., when, after the reception and vote of thanks to the Master, Wardens, and Court of the Worshipful Company of Cordwainers for the loan of the Hall, the President, Mr. W. G. RAYNER, will deliver a short address reviewing the position and progress of the profession during the past twenty-one years. This will be followed by a motion by Mr. JAMES MARTIN, the Secretary of the Society, seconded by Mr. ALEX. AITKEN, of Johannesburg, advocating the regulation and control of the profession, by statute of the Imperial and Colonial Parliaments, in the interests alike of the profession and of the public. Inasmuch as only an hour is set aside for the consideration of this question, the discussion is hardly likely to be exhaustive. At its conclusion Mr. CHAS. H. WILSON, of Leeds, will move a resolution expressing regret that effect has not

been given to the recommendations of the Joint Select Committee on Municipal Trading of 1903, which will be seconded by Mr. F. WARMESLEY, of Manchester. The Conference will then adjourn to the Royal Hotel, Victoria Embankment, for luncheon, and, while no set programme is provided for the afternoon, there will be a reception at the Mansion House at 9 o'clock by the Right Hon. the Lord Mayor (Sir WALTER VAUGHAN MORGAN, Bart.) and the Lady Mayoress.

On Friday, the 5th prox., the proceedings will open with a paper on "Bankruptcy Reform," by Mr. HARRY L. PRICE, of Manchester, after which Mr. ARTHUR E. GREEN, of London, will move a resolution in favour of legislation protecting deeds of arrangement from voidance by subsequent bankruptcy, provided they meet with the approval of a majority of creditors representing three-fourths of the total liabilities. After a morning thus devoted to the discussion of insolvency law and practice, the Conference will adjourn at 12.45, to meet an hour and a-half later at Palace Yard, Westminster, to view the Houses of Parliament and Westminster Abbey, and at 7.15 there will be a banquet at the Whitehall Rooms of the Hotel Métropole, with the President, Mr. W. G. RAYNER, in the chair. Saturday, the 6th prox., will be devoted to an up-the-river trip, starting from Waterloo Station at 8.40 a.m. for Kingston and Hampton Court.

A full report of this Conference will appear in these columns in due course. In the meanwhile, however, we think our readers can hardly fail to be struck by the appropriateness of taking advantage of such an anniversary by holding a Conference in London, and under

such circumstances as can hardly fail to very prominently direct public attention to the existence of the Society. With a continuation of this forward policy, as compared with the less advertising policy of the Institute, it is not altogether surprising that quite a large number of business men, and the majority of those who are not engaged in business, should be unaware of the fact that Chartered Accountants and Incorporated Accountants are members of distinct organisations. While upon the subject, we may mention that the recently-formed London Association of Accountants, Lim., which a short time since adopted the expedient of holding a Conference at the Botanical Gardens, Regent's Park, N.W., as a means of drawing attention to its existence, has actually gone the length of issuing a circular broadcast which commences as follows:—

"DEAR SIR,—

"As doubtless you are naturally desirous of increasing your practice, may I call your attention to the opportunities for so doing which will be offered on the passing of the Trust Accounts (Audit) Bill now before Parliament. This Bill provides that all trustees must have their accounts audited once a year, and that the *auditor must be a member of this Association*, or a Chartered Accountant, a member of the Society of Accountants or a bank manager."

The suggestion that this paragraph would doubtless convey to those not cognisant of the situation would be that the London Association of Accountants, Lim., was the leading body of professional accountants, and that the Bill referred to had been introduced at its instigation, both of which impressions would, of course, be quite erroneous. It is much to be regretted that nothing can be done to prevent this altogether unnecessary and undesirable multiplication of societies, which naturally has the effect of

confusing the public. Apparently, however, we are no nearer the solution of this hoary question now than we were some ten or twelve years ago.

Weekly Notes.

The Profits and Income Insurance Company, Ltd.

This enterprising company has recently issued a new prospectus, from which we observe that applicants for loss of profit insurance will no longer be required to allocate the total amount for which they require cover between net profit and items of standing expenses. A new policy is now being issued containing only nine conditions, against nineteen in the older form.

Chartered Accountants and Professional Secrecy.

An important question of professional conduct arose out of the application made recently in Dublin for the compulsory winding-up of a company that was already in voluntary liquidation. The legal aspects of the matter are of no particular interest outside Ireland, for as the Companies (Winding-up) Act, 1890, only applies to England and Wales, the winding-up practice in Ireland still follows the provisions of the 1862 Act. The point that attracts our attention here is that one of the chief arguments put forward by the petitioner for a compulsory order was apparently a statement produced by the late auditor of the company, which showed a result differing very considerably from that disclosed by the company's last Balance Sheet, which had been audited by him. Counsel for the respondent company complained that this statement had been handed to the petitioner by the late auditor after the shareholders had declined to appoint him liquidator in the voluntary winding-up; but, however that may be, a question of some considerable importance arises as to whether it is ever permissible for an auditor or for the late auditor of a concern to voluntarily disclose to third parties, and *a fortiori* to those who may be hostile, information as to its affairs which has come to his knowledge *qua* auditor. If a member of any of the recognised institutes of accountants were to act in this manner we feel sure that the governing body would feel called upon to ask for explanations; but in the case under review, apparently, the accountant whose conduct is under criticism

is beyond the reach of any organised body. In the existing state of the law the public would appear to have no means of obtaining protection against unattached practitioners.

The Newcastle- upon-Tyne Accounts.

In his report to the Lord Mayor, Aldermen, and Councillors of the Corporation of Newcastle-upon-Tyne, dated the 31st July last, the professional auditor, Mr. Thomas Bowden, F.C.A., again suggests the desirability of considering the revision of the method of keeping the accounts. He points out that in the report on the system made by his late predecessor it was made clear that the recommendations contained in that report were not to be considered as incapable of further improvement in the light of subsequent experience. The wide extension of the Corporation's operations since that time, including the establishment of trading undertakings, has introduced entirely different conditions. The method of valuing corporation assets is not sufficiently comprehensive, and it is believed that improvements might also be effected in the Stores, Work Done (Recoverable), and Cartage Accounts. In accounting, as in other matters, it certainly does not do to stand still for ever. A system that may have been most advanced twenty years ago may easily be quite out of date at the present time, and in no class of undertaking is this a more likely contingency than in connection with the accounts of local authorities. We gather, moreover, from Mr. Bowden's report, that the treatment of the Depreciation Accounts in connection with the Electric Tramways Department is one that does not serve its purpose, and therefore calls for entire reorganisation at an early date.

District Auditors' The Local Government Chronicle, in its Surcharges.

issue of the 8th inst., contains an article on Surcharges by Auditors which *inter alia* draws attention to an anomaly that we have often mentioned in these columns—namely, the absurdity of the surcharge being made not against those actually responsible for the illegal expenditure, but against those who, discharging a purely administrative duty, have signed the cheque for such payment. The unfairness of this procedure is so obvious as to render a laboured argument unnecessary, but our contemporary provides such an argument nevertheless, stating that where goods have been purchased and have been accepted and used by a local authority they must be

paid for, and as the authority could be sued for them there is a legal obligation to pay which the authority cannot escape from; whence it argues that, after goods have been used and the time has come for them to be paid for, there is nothing illegal in signing a cheque and paying a just debt. This suggests to us another point altogether, which, so far as we are aware, has never yet been argued—namely, as to whether a person supplying goods or services which represent an illegal expenditure upon the part of the local authority is in a position to recover from that authority at law. *Prima facie*, the case would appear to be that of principal and agent, and the creditor would presumably be held to have legal notice of the limitations of the agent's authority. An agent who acts beyond his authority to the knowledge of a third party cannot bind his principal to such third party; hence it would appear that there is, under such circumstances, no debt legally due by the local authority. This may be, after all, the justification for the practice of surcharging those individuals who pay away public moneys to persons to whom they are not legally due.

The Liabilities of Local Authorities. One of the disadvantages—or shall we say one of the disabilities?—of local authorities engaged in trading operations is that owing to the statutory and official control over their finances their methods of dealing with exceptional crises are of necessity inelastic. All the charges for which no borrowing powers can be obtained must be charged against current revenue, there being no middle course of carrying to a Suspense Account and writing them off gradually over two or three years. Thus, in connection with a tramway accident which occurred at Swindon on the 1st June last claims have already been received for compensation amounting in the aggregate to thirty thousand pounds. The Corporation officials are, we understand, sanguine that twelve thousand pounds will cover the whole liability, but even that represents a rate of one shilling in the pound, which is, of course, a serious item. It may well be questioned whether ratepayers would not prefer to equalise these risks somewhat by having them covered by insurance.

The New Table A. Messrs. Gee & Co. have just issued a reprint of the new Table A in pamphlet form, which will be found very convenient for reference. The price is 6½d. post free.

The Law Society and Undischarged Bankrupts.

Among the Acts passed during the past Parliamentary session was one to amend the Solicitors Acts, which provided that Section 16 of the Solicitors Act, 1888, which authorises the Registrar of Solicitors to refuse to issue certificates in certain cases, shall apply to every solicitor who being an undischarged bankrupt applies for a fresh certificate or the renewal of a certificate to practise. Power is also granted to the Registrar of Solicitors to inspect the file of proceedings in bankruptcy relating to any solicitor without fee, and to be supplied with office copies of documents upon payment of the usual charges.

What is Municipal Capital Expenditure? According to an account, which appeared in a recent issue of the *Electrical Engineer*, of an inquiry recently held by the Local Government Board Inspector at Bristol, on the application of the City Council to borrow a sum of £103,554 for purposes of electric lighting, the Inspector is reported to have stated that loans in respect of capital construction did not cover the wages of permanent men. It is, of course, necessary in all cases to make careful inquiry that ordinary current establishment charges are not improperly capitalised, but, however that may be, the rule (if indeed there be one) that the wages of permanent men employed on constructive work cannot be capitalised and borrowed against can only be regarded as a piece of ridiculous red-tape. One cannot help thinking, however, that either our contemporary is misinformed as to what took place, or else the Inspector was speaking loosely, and made use of an expression which did not accurately convey what he seriously meant.

Secret Branches.

A rather curious case was heard at the City of London Court last week when, in an action to recover the price of goods sold and delivered, it transpired that the defendants' business was bought some years ago by a well-known dairy company trading under limited liability, and had been continued as a secret branch because customers of this particular business were rivals in trade of the purchasing company. Judge Rentoul said he thought an Act of Parliament should be passed requiring people who took over a business to state so plainly and publicly. Mr. Lushington, for the plaintiff, remarked that the

Companies Acts had been violated by this class of trading and heavy penalties incurred, while counsel for the defendants said that many City firms would be liable to the penalty in question. With regard to this practice of running secret branches, which is by no means uncommon in this country, it may be pointed out that where taxation is based upon capital it is quite a usual event for small subsidiary companies to be formed in order to escape the full effect of the tax, but, of course, these subsidiary concerns are generally self-contained, and thus no great harm is done. Here, however, where taxation is based upon the Inland Revenue authorities' idea of profits, the practice of running secret branches is sometimes resorted to in order to ease the strain of taxation by claiming separate assessments and rebates, the actual ownership of the branches being unknown, of course, to the Department, whose officers deal with the manager as a principal. It is not difficult to understand that, smartly worked, this ingenious scheme might result in a considerable saving as regards tax paid. Secret branches are, however, sometimes run for other purposes, mainly arising out of the necessity of keeping a certain class of trade together without disclosing change of ownership; but, of course, the secret trading policy is also a powerful weapon for offence in the hands of unscrupulous parties. We need only give one instance—our readers, out of their own personal experience, will be able to multiply it a hundredfold, no doubt—that of A., a small shopkeeper, who declines to join the B. syndicate—a ring of traders whose co-operative aim is to keep prices up to a false (that is, economically false) level. What happens? The B. syndicate open a shop next door, or as near as possible to A., in the name of C., apparently a private trader. The prices charged by A. to his customers are mercilessly cut by C. until it becomes merely a question of the longest purse. Needless to say the B. syndicate wins, either by forcing A. to join the corner, or by elbowing him out of business, *via* Carey Street—or, if discretion is the better part of valour, perhaps without that distinction. The compulsory registration of firm names with those of the actual proprietors would certainly tend to remove many abuses which are at present rampant.

Bank Dividends and Reserves. *The Statist* still maintains its attitude that the dividends of the banks are extravagantly high, and the writer of Banking Notes

in the columns of *The Financial Times* sets himself to point out several factors which should be borne in mind by all parties when the question is being considered. In the first place, he says that anyone who has followed banking affairs with attention should know that the official rate of distribution declared by a British managed bank is really very misleading, for many deductions have to be made before the actual rate on the money belonging to the proprietors in the bank can be ascertained. It is pointed out that there is the visible Reserve Fund, which often approximates to the paid-up capital; then there are the hidden reserves to be thought of, and these, with their writing down of premises and securities, are sometimes formidable. *The Statist* also contends that the reserve of a bank should not be employed in the business, but it is here submitted that the Reserve Fund of an ordinary bank is not created to save it against a run, but to protect the capital of the bank as regards depreciation of assets. No ordinary bank, it is said, would be saved by the strength of its reserve if its assets were not liquid and a run ensued, the fundamental use of a Reserve Fund being to provide against sudden depreciation. The ability to secure gold is said not to be the pressing matter, but the maintenance of an imposing frontage of sound assets so far as the public is concerned. This view, while doubtless the result of careful thought, is not quite on the lines on which Bank Reserves have hitherto been considered.

The Rating of Closed Theatres. Sir Albert de Rutzen has now given his decision in the case of the Lyceum (1903), Lim., against whom, it will be remembered, a summons was recently issued for non-payment of rates. It had been contended on behalf of the trustees for the first debenture-holders, who were in possession, that as the theatre was closed it ought to be exempt from rates, but on behalf of the Westminster City Council it was pointed out that the theatre was tenanted during a great portion of the period over which the rate was claimed, furthermore the stock, stage scenery, and carpets were still in position, and the seats throughout the building remained. In addition to this, two rooms in the building were sub-let, and it was submitted therefore that there was occupation. The magistrate said he had come to the conclusion that in this case occupation had been fully proved, and he must make the usual order. In the case of the London Coliseum the defence was withdrawn. Our readers will note that

these cases are generally decided on the facts in each instance.

The Splendid Guardians.

Adverting to the Royal Commission on the Poor Law administration, it is said that while in 1864 there were 999,400 paupers in the United Kingdom, forty years later the number was reduced to 769,029. Unfortunately, however, the cost of maintenance and administration has risen from £6,423,381 in 1864 to £13,369,494 in 1904! Here, surely, is food for thought, even after the Poplar *exposé*, and if the average ratepayer were not such a patient beast of burden we could fancy he would as keenly devour the forthcoming Report of the Commission as his prototype does thistles.

Railway Statistics.

The British Railway Returns for 1905, issued recently by the Commercial Labour and Statistical Departments of the Board of Trade, afford the usual wealth and variety of statistics—satisfying enough for a Fiscalite. Whether as passengers, traders, or investors, students will find much that is of more than passing interest, although, naturally, some facets of the subject have been repolished so many times before. Investors will probably derive least satisfaction from a perusal of this voluminous Blue Book, for the proportion of net earnings to capital still shows a downward tendency:—

Years. Average of		per cent.
"	1871-5	4'56
"	1876-80	4'29
"	1881-85	4'22
"	1886-90	4'07
"	1891-95	3'80
"	1896-1900	3'64
"	1901-1905	3'37

A large portion of the shrinkage arises from nominal additions to capital consequent on conversion schemes, but even then the drop shows that for once the "bloated" capitalists are not having it all their own way. The table given below furnishes a convenient summary of the rates of increase in passenger journeys, tonnage conveyed, receipts, and train mileage.

	Pc.
Increase in number of ordinary passengers conveyed in 1905 compared with 1904	nil.
Increase in passenger train mileage	1'8
Increase in receipts from passenger traffic	0'7
Increase in tonnage of goods conveyed in 1905 compared with 1904	2'5
Decrease in goods train mileage	0'3
Increase in receipts from goods traffic	1'8

The Municipal Tramways Association.

The fifth annual conference of the Municipal Tramways Association was held at Leeds on the 19th inst., under the presidency of Mr. J. B. Hamilton, of Leeds. In the course of his presidential address, Mr. Hamilton referred to the provision of Reserves for Depreciation and Reserve Funds in connection with municipal tramways. With regard to the first, he pointed out that while some committees applied all their surplus profits to a Renewals and Depreciation Account in some form or other, others went to the other extreme, and after providing merely for working expenses, interest, and Sinking Fund, applied the whole of the balance in relief of rates. A mid-course, which was adopted *inter alia* by Leeds, was to set aside a substantial sum out of each year's profits, and to apply the surplus only in relief of rates. We gather, however, that the provision so set aside is described as "Reserve Fund," which under the circumstances seems to be a misnomer. Leeds has, we understand, obtained Parliamentary powers to accumulate out of profits a Reserve Fund not exceeding one-fifth of the aggregate capital expenditure for the time being, but if the profits out of which this fund is accumulated are arrived at without first making due provision for depreciation, the term Depreciation Fund, or Reserve for Future Renewals, would more accurately describe it and be less misleading.

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinions expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Poor Rate Assessment.

(To the Editor of The Accountant.)

SIR,—Replying to your correspondent "B.," I think the following is the usual method of arriving at the "gross rental" and the "rateable value" of a heredita-

ment where the occupier pays a rent inclusive of rates:—

Let x = the rent.

Let y = the rates (including water rent).

$$x + y = £13.$$

$$y = 10/- \text{ (the water rent) } + \frac{3}{8x} \text{ (7/6 in the } £)$$

$$x + y = \left(x + \frac{3}{8x} + 10/- \right) = \frac{11}{8x} + 10/-$$

$$\text{If } \frac{11}{8x} + 10/- = £13,$$

$$\frac{11}{8x} = £12 \text{ 10s., and therefore}$$

$$x = (£12 \text{ 10s.} \div 11 \times 8) £9 \text{ 1s. 10d.}$$

The gross rental is therefore £9 1s. 10d., and the rateable value would be (£9 1s. 10d. - 20%) = £7 5s. 6d.

Now that the rental has been ascertained it is possible to prove its accuracy in the following manner:—

The total rent including rates is £13 0 0

The rates at 7s. 6d. in the £

on £9 1s. 10d. = ... £3 8 2

and the water rent = ... 0 10 0

Total deductions 3 18 2

Leaving amount receivable as rent £9 1 10

Yours truly,

F. S. ECKERSLEY.

St. Annes-on-Sea, 22nd September 1906.

(To the Editor of The Accountant.)

SIR,—In answer to your correspondent's question as to the above, the results can only be obtained by the use of algebra. The following shows how the gross estimated rental and rateable value is arrived at:—

Let x = gross estimated rental.

Therefore $\frac{4x}{5}$ = rateable value (which is allowing 20% from the gross for the statutable deductions).

$$\therefore x + \left(7/6 \text{ in the } £ \text{ on } \frac{4x}{5} \right) + 10/- = £13 \text{ rent.}$$

Bring this to shillings—

$$\therefore x + \left(\frac{7\frac{1}{2}}{20} \times \frac{4x}{5} \right) + 10/- = 260 \text{ shillings}$$

$$\therefore x + \left(\frac{15}{40} \times \frac{4x}{5} \right) + 10/- = 260 \text{ shillings.}$$

$$\therefore x + \left(\frac{3x}{10} \right) + 10/- = 260 \text{ shillings}$$

$$\therefore 10x + 3x + 100 = 2,600 \text{ shillings}$$

$$\therefore 13x = 2,500 \text{ shillings}$$

$$\therefore x = £9 \text{ 12s. (Gross estimated rental.)}$$

This can be proved as follows:—

The gross estimated rental, £9 12s., less 20% = £7 14s., which is rateable value. These assessments are usually calculated to nearest half-crown, so that £7 15s. may be taken as the rateable value.

The rate on £7 15s. at 7s. 6d. in the £, together with 10s. per annum for water, amount to £3 8s.

This £3 8s. added to the gross estimated rental, viz., £9 12s., amounts to £13, which is the rent.

A somewhat similar calculation appears in "Penfold on Rating," p. 13.

I am, yours faithfully,

Ipswich, 22nd September 1906.

C. F. BLAND.

(To the Editor of The Accountant.)

SIR,—Referring to the letter of your correspondent "B" in last week's issue, the following explanation may be of service to him.

The "gross estimated rental" is ascertained by subtracting the total rates from the gross annual rental. The rateable value is arrived at by deducting 20 per cent. (a statutory allowance for repairs, insurances, &c.) from the "gross estimated rental."

To find the rateable value of a house producing £13 gross per annum, the rate being 7s. 6d. in the £ on such rateable value, let x represent the rateable value.

Then:

$$x + \frac{1}{4}x + \frac{3}{8}x = £13.$$

$$1\frac{5}{8}x = £13.$$

$$\text{Rateable value} = £8.$$

$$\text{Gross Estimated Rental} = £10.$$

The charge for water is not a rate in the great majority of cases, it partaking of the nature of a rent, and no allowance is provided for by statute.

Yours faithfully,

J. H. ROGERS.

Birmingham, 25th September 1906.

Check-Figure System.

(To the Editor of The Accountant.)

SIR,—Permit me to endeavour an explanation of a check-figure system for the information of your correspondent Mr. C. O. Filey and others interested.

At the outset let me state that I do not know whether the system I am about to describe is the same

or similar to the systems at present being advertised for sale. My method, so far as I am aware, is my own.

In answer to Mr. Filey's first question, a check-figure system is a method of deriving from an amount of £ s. d. a check-figure which, when added to the check-figures similarly derived from other amounts, will show the check-figure of the total of the amounts.

To derive the check-figure of an amount, first divide the pounds by 13 in order to arrive at the number left over (if any). The number of times 13 is contained in the pounds is immaterial, the amount left over alone being required for our purpose. Half the number of pounds left over is for our purpose equal to shillings—e.g., 3 pounds left over equals $1\frac{1}{2}$ shillings, or 1s. 6d. Add the shillings and pence so arrived at to the shillings and pence in the amount being dealt with, deduct the pence in the result from the shillings, and the remainder is the check-figure required. Should the number of shillings be less than the number of pence, add 13 to the shillings before deducting the pence.

The following illustrations may make the matter more clear:—

Required the check-figure of £48 11s. 1d.

$48 \div 13$ leaves 9 over.

$9 \div 2 = 4$ s. 6d.

4s. 6d. + 11s. 1d. = 15s. 7d.

$15 - 7 = 8$ = check-figure required.

Required the check-figure of £47 1s. 11d.

$47 \div 13$ leaves 8 over

$8 \div 2 = 4$ s.

4s. + 1s. 11d. = 5s. 11d.

$5 + 13 - 11 = 7$ = check-figure required.

Although the above process may seem slow when stated as above, it is really very rapid; and the calculation can be made mentally almost as quickly as the amount, the check-figure of which is required, can be written. The only difficulty may arise in the dividing of the pounds by 13; but if the multiples of 13 up to 9 times are made familiar, viz., 13, 26, 39, 52, 65, 78, 91, 104, and 117, this difficulty is considerably minimised, bearing in mind the fact that it is the surplus over multiples of 13 that is required. For example, if we require to divide the large amount of £8,943,568, the process (having in mind the multiples of 13 above-mentioned) is something like this:—89 leaves 11; 114

leaves 10; 103 leaves 12; 125 leaves 8; 86 leaves 8; 88 leaves 10.

The following example explains how the total check-figures show the check-figure of the total of the £ s. d.:—

£ s d	Check-figure
46 19 8	8
375 3 4	11
8 8 0	12
0 8 8	0
<u>£430 19 8</u>	<u>31 less 26 = 5</u>

Note that where the check-figures total to more than 12 it is necessary to deduct the nearest lower multiple of 13, or in other words to divide the total of the check-figures by 13, the number remaining over being the check-figure of the total £ s. d.

Now as to using the system for the purpose of catching errors in posting. Let us suppose we are posting a page of a Cash Book to the Ledger. The posting is made, and the check-figure of the amount entered in the Ledger is arrived at and written near the folio column. When entering in the Cash Book the Ledger folio reference we at the same time enter the check-figure arrived at and posted in the Ledger. When the page of cash entries is posted each item of cash will have alongside it a check-figure, and the total check-figures should show the check-figure of the total £ s. d. on the page. If they do not, then either our addition is wrong in the Cash Book, or one or more entries have been posted incorrectly to the Ledger, for it was in the Ledger we derived our check-figure. If we test our cash addition and find it correct we must test the check-figures with the cash entries, and on finding an entry the check-figure for which differs from the one entered from the Ledger we shall have discovered our posting error (always assuming we have correctly derived the check-figure from the amount entered in the Ledger).

There are some possible errors in posting which, so far as I see, the above system will not catch. For example, an error of posting to the debit instead of to the credit, or *vice versa*.

Or suppose two dissimilar amounts having the same check-figure (as, for instance, 1s. 1d. and 2s. 2d.) come together in, say, the Cash Book, and after posting the first item, we in posting the second item copy the first

into the Ledger again; then the check-figures will not reveal the mistake.

One of the gentlemen who advertises his system states that he has adapted it to catch errors in posting to wrong accounts. I do not know that any adaptation of my method will do this.

I do not wish to claim that the method I have attempted to describe is perfection, and if any of your readers can suggest improvements—for instance, if they can suggest a quicker method of dividing the pounds by 13—I shall be pleased to learn. Neither am I able to say anything as to its practical utility, not having seen the system in use by a bookkeeper.

I am, Sir, yours truly,

GEO. W. MITCHESON, A.C.A.

Manchester, 25th September 1906.

Stockbroking in India.

(To the Editor of The Accountant.)

SIR,—I have read with great interest the article on "Stockbroking in India," contributed by a Mr. George Cecil, in your issue of Saturday last the 22nd inst., and, to my great surprise, have come across the following paragraph:—

"Indeed, compared with the Mahomets, Ghoses, Bhoses, and Lal Dasses, the Jeejeeboys, *Jamjeeboys*, and *Chuckerbutties*, and also the innumerable *sun worshippers*, whose names terminate in 'wallah,' have infinitely more important buying and selling orders to give than has any other description of natives."

The words in italics evidently refer to the "Parsees."

May I, through the medium of your journal, draw the attention of Mr. Cecil and several of your readers to the fact that the names "Jamjeeboys" and "Chuckerbutties" are *not* Parsee names.

Also let me tell you that the Parsees have been *ignorantly* described as "*sun worshippers*," which they are *not*.

Will you please publish this in your next issue to give justice to the Parsee community, and oblige,

Yours faithfully,

SORAB R. BATLIBOI.

London, 24th September 1906.

Obituary.

Adam Murray, F.C.A.

"When loving hearts are separated, not the one which is exhaled to heaven, but the survivor it is which tastes the sting of death."

With the death of Mr. Adam Murray, F.C.A., which took place on the 21st inst. at his residence, Hazeldean, Kersal, Manchester, at the age of 79, the accountancy profession bids a sorrowful adieu to a noted standard bearer, who held high and unsullied the flag of his calling. For many years past Mr. Murray's name has been a household word in the profession. Few have had its interests more closely at heart; few have been more ready to aid, with purse, leisure, or brains, and this is saying not a little where helpers have abounded. Mr. Murray may justly have been considered the central figure of accountancy in the North of England, up to his retirement a few years ago, for a quarter of a century, and worthily has he worn the mantle. The conspicuous acts of kindness shown to us personally were but samples of the measure he meted out with no unstinting hand to accountants young and old, and the world will be the poorer for his loss.

Born of Scotch parents, Mr. Murray left school at an early age, and after gaining experience in the Inland Revenue offices of various northern districts he became associated with the late Mr. George Marsden, accountant, of Liverpool. He afterwards made the acquaintance of Mr. John Thomas, accountant, of Manchester (now in his 85th year, and therefore one of the oldest members of the accountancy profession), and through the late Mr. William Sale, one of Manchester's best-known solicitors, he was introduced to the late Mr. William Broome and the late Mr. J. G. T. Child. Mr. Child practised as an accountant at Manchester and Bury under the style of Child, Fitzgerald & Taylor. In 1860 Mr. Murray settled in Manchester, and the firm of Broome, Child, Murray & Co. was established. Mr. Merchant and Mr. John Thomas afterwards joined the firm, and for many years it held the foremost place among accountants in the district. Four or five years later Mr. Child left the firm. In 1873 Mr. Thomas withdrew. Mr. Murray subsequently admitted as partners, at varying periods, the late Mr. J. R. Owen, Mr. William Ashworth, the late Mr. S. Mosley, Mr. J. T. Murray, and the late Mr. Henry Lunt.

In March 1891 the firm was dissolved. Mr. Murray then retired from active practice, but the title of the firm was retained by him. Mr. Murray has held many public appointments, among them being that of auditor to the Manchester and County Bank, Williams Deacon's Bank, the Lancashire Insurance Company, the Manchester Assurance Company, the Great Central Railway Company, the Rochdale Canal Company, the River Weaver

Navigation Company, and other companies. He was also a director of the Royal Insurance Company, the North of England Assets Company, and other concerns. He gave several years of valuable service to the Manchester City Council. He was an authority on the law relating to income-tax, on which subject he wrote, in conjunction with Mr. R. N. Carter, F.C.A., Manchester (one of his articulated pupils), a comprehensive treatise which has run into several editions. It was probably on this account that he was appointed a member of the Royal Commission, whose report on this intricate question was submitted to Parliament last year.

He was one of the original members of the Council of the Institute of Chartered Accountants from the granting of the Charter in 1880, and was Vice-President in 1889-90.

"Manchester loses one of its most trusted citizens. By his integrity and prudence, and scarcely less by his natural courtesy, Mr. Murray won the goodwill of all with whom he had to do. His life was gentle, and all who knew him felt it a pleasure to be associated with him," says *The Manchester Guardian*.

In 1856 Mr. Murray married Martha, the youngest daughter of the late Mr. Joseph Thomson, of Kirkmahoe, Dumfriesshire. He leaves a widow, five daughters, and three sons, viz., Mr. J. T. Murray, of London; Mr. Adam Murray, a member of the Committee of the Manchester Stock Exchange; and Mr. W. R. W. Murray, solicitor, of Manchester.

In our issue of April 9th 1904 will be found a reproduction of his last photograph, with a short sketch.

The funeral took place at St. Paul's Churchyard, Kersal, on the 24th inst. By the desire of the family it was of a private character, but there attended at the churchyard representatives of very many of the commercial institutions of Manchester. The chief mourners were Mr. J. T. Murray, Mr. Adam Murray, and Mr. W. R. W. Murray, sons; Mr. F. A. L. Murray, grandson; Mr. Alec Bryce Chalmers and Mr. J. G. Wood, sons-in-law; Mr. J. A. Thompson, nephew; also Dr. Kinghorn and the Rev. William Young. The service was conducted by the Rev. David Macdonald.

Among those who were present were:—Messrs. A. P. Popplewell, J. E. Halliday, and R. E. Carter, Manchester Society of Chartered Accountants; H. S. Ferguson and J. W. Womersley, Manchester Students' Society of Chartered Accountants; F. G. Burton, Jacob Earnshaw, and A. E. Piggott, Manchester and District Society of Incorporated Accountants; P. J. Ramsey, J. P. Reid, and A. S. Brewes, Warehousemen and Clerks' Orphan Schools; R. M'Connell and W. Peddie, Royal Insurance Company; George Hieatt (Bury & Co.), Sheffield; E. F. Sheppard G. A. Falkner, Manchester and County Bank; F.

Williams, Great Central Railway; and A. A. Gillies, St. Andrew's Society of Manchester; Sir Joseph Leigh, Messrs. William Hawkins, J. J. Alley, Edwin Oliver, the Rev. W. Rigby Murray, Messrs. C. H. Wade, A. F. P. Allen, E. O. Mosley, J. H. Fulton, and A. Mitchell; Mr. G. and Mrs. Lunt, of Liverpool; Mr. J. K. Bythell, chairman Manchester Ship Canal Company; Mr. Wood, Williams Deacon's Bank; Messrs. G. E. Haworth, W. H. Renshaw, A. H. Pownall, George Rhodes, T. C. Midwood, G. Norris Midwood, W. R. Watts, Dr. Grange, Messrs. James Renshaw, Adam Stewart, J. B. Southern, J. Thomas, A. J. Murgatroyd, John Mather, L. M. Hayes, W. J. Morgan, R. B. Lilley, Mr. Oliver S. Holt, Great Central Railway; Mr. Leonard Tatham, clerk to the Commissioners of Taxes; Messrs. James H. Thompson, John Fulton, R. W. Neil, Archibald Neild, G. C. Haworth, R. Smith, Hubert T. Jones, William M. Mollison, Alderman Rushworth, R. N. Barclay, G. Hartley Turner, G. W. Mitcheson, William Ashworth, F. B. Foster, F. Bridgeford, W. H. Shaw, and Halsall (Ashworth, Moseley & Co.); J. H. Nicholson, Walter A. Welsh, Pickstone, Joseph Richardson, and the Rev. J. M. Rodger. Many wreaths were sent, also private carriages, including that of the Mayor of Salford (Mr. Alderman Frankenburg).

Albert Goodman, F.C.A.

We regret to record the death of Mr. Albert Goodman, F.C.A., chief partner in the firm of Goodman, Sons, Pollard & Bruford, Chartered Accountants of Taunton and London, which took place on the 12th inst. at the age of 65 years.

Born in Taunton in 1841, Mr. Goodman was all his life prominently connected with the public and philanthropic life of Taunton. To mention the many societies with which the deceased gentleman was connected would be a difficult task, but for 47 years he filled the position of auditor to the Bath and West of England and Southern Counties Association, never missing one of the annual meetings during the whole of that time, this year at Swindon being his 47th show. He was also interested in agriculture in other ways, being in 1884 presented with a handsome clock and sphinx for his services as treasurer of the old Taunton Agricultural Association, now merged into the County Association. One of the institutions in which he took a keen interest was the Independent College, now Taunton School. For 30 years he acted as secretary, and when the college was made into a public school he took a prominent part in the change. From the early year of 1873 he was identified, too, with the Taunton and Somerset Hospital, acting as accountant. He was one of the founders of the Somerset Sanitary Steam Laundry, and

occupied a seat on the board. With the Taunton Gas Co. he was connected for a great many years, being one of the directors, and was at the recent meeting elected deputy chairman in the place of the late Mr. Geo. Saunders. Among the numerous other positions Mr. Goodman held were the following:—Secretary of the Somerset County Club, a manager of the Central Schools, director of the West Somerset Coffee Tavern Co., a manager of the West Somerset Savings Bank, a member of the General Committee of the Taunton Deane Horticultural and Floricultural Society, and Secretary of the Taunton and West of England Perpetual Benefit Building Society. All his career through he took a great interest in the religious life of the town, being prominently connected with North Street Congregational Chapel and Congregationalism generally. In all circles he was much respected, and his loss will be greatly felt in many quarters. He leaves a widow and four sons—namely, Mr. S. C. N. Goodman (barrister practising on the Western Circuit); Mr. Clifford Goodman, now senior member of the firm; Mr. E. A. Goodman, of North Street; and Mr. R. A. Goodman, also a member of the firm. There are also three daughters.

The funeral took place on the 17th inst., at St. Mary's Cemetery, but a service was previously held at North Street Congregational Chapel. This was very largely attended, those present including the Mayor of Taunton (Alderman J. G. Vile), Mr. G. H. Kite (Town Clerk), Alderman W. Potter, Councillors J. Lewis (ex-Mayor), A. J. Spiller, J. G. Price, W. H. Westlake, and F. W. Penny, and many others.

Reviews.

The Accountants' Manual, Vol. X.

London, 1906: Gee & Co., 34 Moorgate Street, E.C.

Price 12s. 6d.

The volume now issued comprises the questions set at the Preliminary, Intermediate, and Final Examinations of the Institute of Chartered Accountants from December 1904 to June 1906, both inclusive, together with answers thereto, lists of the successful candidates at each examination, and a very full index, making reference to the questions dealing with any class of subject both speedy and exhaustive. The volume extends over nearly six hundred pages, and the index occupies an additional twenty. It will thus be seen that an enormous mass of

information is included. Inasmuch, however, as the answers to the questions raised are set out far more fully than could be reasonably expected of a candidate in the time available, the volume may also be regarded as taking its place as a standard book of reference for practitioners, who, with the aid of the indexes that are provided to these volumes, are thus enabled to obtain in a practical form reliable information upon all the various questions asked from time to time at the Institute Examinations, a sum total which cannot fall very far short of all the points that are ever likely to occur in practice.

Some Legal Terms, or Introductory Lectures on Law for Accountant Students.

(Reprinted from *The Accountant*.)

London, 1906: Gee & Co., 34 Moorgate Street, E.C.

Price 1s. net.

The interesting series of papers under the above heading, which have appeared in these columns from time to time during the past few months, have now been reproduced in book form. They will be found of considerable value to all accountant students, enabling them at the outset to clear up many difficulties that naturally arise in the minds of laymen attempting to study legal subjects with the aid of text-books—difficulties which not infrequently give rise to the strangest misconceptions, and in any event cause much loss of valuable time.

Partnership Accounts.

By PERCY CHILD, A.C.A.

London, 1906: Gee & Co., 34 Moorgate Street, E.C.

4th Edition. Price 2s. 6d. net.

The present edition of this work, which is now well known to all accountant students, has been brought up to date, and includes, *inter alia*, some interesting notes and illustrations on the decision in *Garner v. Murray*. Within a comparatively short space the author contrives to deal in a manner readily intelligible to the Intermediate student with all the various points in connection with Partnership Accounts with which the examiners are likely to expect him to be acquainted.

Leicester Chartered Accountants Students' Society.

Syllabus.—Autumn Session, 1906.

President—Mr. A. P. Carryer, A.C.A.

Hon. Secretary—Mr. A. D. Wykes (with Messrs. Hopps & Bankart, 25 Friar Lane).

Oct. 10.—Stump Speeches.

„ 24.—Debate.

Nov. 7.—Lecture: The Preparation of Accountants' Certificates in connection with Joint Stock Companies. Mr. A. F. Dodd.

„ 21.—Debate.

Dec. 5.—Question Night.

Dec. 19.—Lecture: "Debentures." Mr. Beaumont Morice.

*Joint Debate with the Leeds Student Society, to be held at Leicester.

*Joint Debate with the Birmingham Student Society, to be held at Birmingham.

The meetings of the Society will be held at Winchester House, 1 Welford Road, commencing at 7 p.m. prompt.

Classes on Law and Accountancy will be held weekly during the Session, the law subjects under the tuition of Mr. E. Huntsman, solicitor (Nottingham), and the accountancy under the tuition of Mr. D. M. Gimson, A.C.A.

The first class will be held on Tuesday, September 18th, at Winchester House, at 7 p.m.

* Date not yet agreed upon.

Personal.

MESSRS. ARTHUR JNO. DAVIS and D. D. ROBERTSON, of St. Lawrence House, Trump Street, King Street, London, E.C., announce that the partnership heretofore subsisting between them as Chartered Accountants, carried on by them at the above address under the style of DAVIS, ROBERTSON & Co., has been dissolved by mutual consent.

MR. ALFRED LASS announces that his address in future will be Sandown Lodge, 352 Upper Richmond Road, Putney, S.W.

MESSRS. MCPHERSON & Co., of 109 Colmore Row, Birmingham, announce that they have admitted into partnership Mr. F. OLIVER TIMMINS, A.C.A., and that the style of the firm will be MCPHERSON, TIMMINS & Co.

MESSRS. ROBERTSON, HILL & Co., Chartered Accountants, announce that they have removed from 22 Great Winchester Street to 4 Broad Street Place, E.C.

Some Points in Municipal Accountancy.

By GEORGE SWAINSON, F.S.A.A., F.L.S.,
Borough Treasurer of Bolton, England.

Extracts from an address before the Lancashire Students' Society of the Institute of Municipal Treasurers and Accountants.

(From *The Journal of Accountancy*, N.Y.)

It will, no doubt, be of interest to you if I describe the system of bookkeeping which prevails in the treasurer's office in Bolton. All invoices which are received in my office are despatched to the head of the department from whence the order was issued, and to which the goods must have been delivered. The head of each department keeps his own Contract Ledgers, &c., so he can certify whether such account is correct, both as to particulars, prices, and extensions thereof. He then initials the accounts and returns the same to me a few days prior to the date of the monthly accounts meeting. These invoices are then checked by my accounts clerk from the indexed Invoice Books, reference being made to previous accounts paid to the same person in order that it may be certified *that each account has not been paid before*, and a stamp to this effect affixed thereto.

Each committee's accounts are then scheduled, and the schedule, when duly signed, constitutes the Council's order upon the treasurer for payment. Immediately the monthly Council meeting has been held making such order for payment, I, as treasurer, pay each account by forwarding cheques; an official form of receipt with reference numbers thereon accompanying each remittance, which is signed and returned to me, and pasted into a guard book from which the Cash Book is entered up and audited.

Any invoice which has been ordered by the Council to be paid (or for which I have authority to pay on the counter-signature of the finance chairman or mayor pending an order for payment) is posted immediately to the Impersonal Ledger from the Cash Book, but ordinarily until an account *is approved* and passed for payment we do not reckon any such account as owing until the year end. But in order that our accounts may not be on the old system of receipts and payments, all accounts which were outstanding on the 31st of March are brought into account by journalising, debiting the several Impersonal Accounts and crediting a Sundry Creditors Account; but this is the only occasion on which we journalise tradesmen's accounts. Where there is any important account in dispute, and especially in reference to *income-tax claims* not admitted, we always debit Revenue and credit a

Suspense Account with the *estimated liability* on March 31, yearly.

Instead of using Personal Ledgers each Invoice Book is fully indexed, so that reference is very easily made to all payments made to any person or firm from whom purchases have been made by the corporation, and, after a long experience in Huddersfield of the lack of value in return for the labour of keeping Personal Ledgers for all tradesmen's accounts, I strongly urge upon you the saving of labour gained by adopting our Bolton method.

You must also always bear in mind that the Treasurer's Abstract should not be merely a skeleton with only the variation yearly of amounts of expenditure and totals, as they are bound to be if you adopt the railway system of journalising summaries of expenditure to the Impersonal Ledgers. Our Corporation Accounts should have a newness—a freshness in their appearance yearly which the other system lacks.

Do not forget that the Municipal Corporations Act requires the Treasurer's Statement to be a *full* abstract of his accounts. Surely this word "full" means something more than a mere summing up of totals under stereotyped headings. I may add that if cutting down of detail posting to a minimum was as essential with corporations as it is with tradesmen's accounts, then I should recommend for adoption some modification of the American Ledger Card system, or Loose-leaf Ledgers, but these, I think, should not be adopted in corporation offices for the sake of saving a clerk or two.

The lines I have herein recommended are being largely adopted amongst the municipalities of England, and I know of some treasurer's who even adopted this method before we began it in Bolton. Recently the borough accountant of Barnsley sent out an inquiry to many of the large boroughs, asking the following question:—"Do you keep Personal Ledger Accounts with all your creditors and for every fund or account?" In reply I sent him a copy of my article in the *Incorporated Accountants' Journal*, and the result of his further inquiries as to our system was that he wrote me that he should adopt our methods in the new system of bookkeeping he had inaugurated at Barnsley.

Now I was in hopes that this matter might be dealt with by some one else in a paper on "The General Standardisation of other Municipal Accounts besides Tramways," but I have not been able to prevail upon any accountant to take the matter up. I learned, however, during my inquiries, that especially in the centre and south of England there is a strong leaning towards continuing the old method of journalising everything, whatever additions the staff this may demand. One gentleman on the south coast wrote me, "That the value of the Journal

"is that it enables the head of the department to see at a glance the whole of the entries made in the books, and consequently the chief Ledger clerk has always before him what you may call a calendar of the actual events for the month, and when a change in the office takes place it involves a minimum amount of dislocation of work; and, in addition, if the staff is one with ambitions to satisfy, here is the scope for *spade-work* on the part of the juniors. In another borough on the south coast where the Journal was brought into full use it happened that immediately after the accountant left for a higher position the chief clerk also left, but the newly-appointed borough accountant, though stranded with juniors, had, fortunately, through the use of the Journal, given to him a key to the whole situation without any undue waste of time, either on his part or his assistants."

This, no doubt, is a distinct value in keeping a Journal, but is this gain (once in an average of ten years) worth the labour of journalising everything for all time, which in the boroughs of Lancashire would mean a considerable increase of staff? Of course, if you are in charge of the accounts of a small borough, possibly a Personal Ledger is the best thing you can have with the Journal and you can journalise everything, but with a well-indexed Invoice Book, and accounts regularly sent in monthly or quarterly, a great saving of labour is effected. I have used both, and must say that I prefer to check the accuracy of the accounts through an indexed Invoice Book rather than through a Personal Ledger, because in the latter place the entries are as meagre as possible, while in the indexed Invoice Book you have the accounts themselves to refer to. Many of us find it would be impossible with our present staffs to journalise everything in gas, water, markets, tramways, and electricity trading undertakings, besides all our ordinary Rating Accounts.

One method in vogue is to pass each invoice through an Invoice Abstract Book, thus debiting the Impersonal Accounts in total and crediting the tradesmen's accounts with the separate amounts in a Personal Ledger. This gives little or no information when you open the Impersonal Ledger for the inspection of a member of the Town Council. This is known as the Railway Companies' System, and its value is that it enables the Profit and Loss and Charges Accounts to be closed quickly, but it does not effect the purpose for which corporation accounts are kept, viz., to enable the councillors to fully understand where the money has gone.

Standardisation of Accounts on Income and Expenditure Lines.

This important matter of uniformity in Corporation Accounts I first brought up when President of the Institute in 1887. You can therefore understand how

delighted I am with the recommendations of the Metropolitan and Home Counties' Branch of the Institute, who have lately gone in so strongly for uniformity in Balance Sheets, but I am rather sorry to learn that the Council of the Institute was of opinion "that in view of the fact that *the Local Government Board was about to appoint a Special Departmental Committee* for the purpose of making an investigation into the accounts of local authorities, no useful purpose would be served by now entering into a discussion on this subject." I differ from them entirely, holding a diametrically opposite opinion. *We ought to lead* and not follow the Local Government Board. In my opinion, we ought to be represented by our President, or some other up-to-date and go-ahead accountant that we possess. The Municipal Corporations Association might possibly be represented by a borough whose accounts are behind the times. It would be worse than a misfortune if the financial representatives of the municipalities of England on this Special Committee were those who adhere to the old system of receipts and payments. I am afraid the Local Government Board would find them "blind leaders of the blind."

I have recently had a good deal of correspondence and discussion with American professional accountants and city comptrollers, who are improving and altering their old out-of-date methods. I would like to submit for your inspection a few abstracts of accounts and reports which they have sent me. They are now on the table before me. They are the accounts of the cities of New York, Chicago, Rochester, Minneapolis, Cambridge, &c. I particularly desire you to note the difference between the City Auditor's Report and Accounts of Pawtucket, R.I., and compare them with those of Minneapolis. A New York financial newspaper, criticising this latter report, says:—"There are several noteworthy features in the new form of the Minneapolis Report. In the first place, there is a Balance Sheet, and it is quite unique. In fact, a Balance Sheet is a rare thing anyway in a municipal report. Usually municipal reports are nothing more than statements of receipts and disbursements." I should inform you that the accountants and auditors of Minneapolis are leading the way in introducing Income and Expenditure Accounts among American cities. How greatly this is needed you will gather when I tell you that I am credibly informed by the Chief Statistician of the Census Bureau at Washington, U.S.A., that the rates and taxes in American cities are often allowed to run five, six, and even more years in arrear. You will quite appreciate what an open door for misappropriation, fraud, and preferential treatment of friends this method of dealing with Municipal Accounts on receipt and payment lines permits.

My reason for drawing your attention to the accounts of Pawtucket was that on page 21 you there see a "professed"

Balance Sheet, but nowhere is there shown any details of the capital outlay, which had occasioned a debt of five millions of dollars, but since writing the above I have received from a well-known firm of Boston accountants their recent report as expert accountants for the City of Pawtucket, showing the new form of accounts which they recommend, and which has been adopted by ordinance of the Pawtucket City Council regulating the new duties of the Auditor and Treasurer. This clearly shows how the bonded debt of Pawtucket is made up under the various statutory powers granted them by law for waterworks, sewers, schools, street improvements, &c., leaving a margin of nearly a million of debt in dollars for ordinary municipal purposes.

Depreciation.

I wish to deal with this matter very cursorily, as your ex-President gave you such an excellent paper dealing with this subject exclusively. You are aware that for some time, in order to get Sinking Fund allowed as Depreciation, I have urged that the lesser should be merged in the greater, and that Sinking Fund should be paid out of the amount provided for depreciation, but if the Leeds case succeeds, then the need for this will no longer exist, as in most boroughs the interest charged on the loan debt exceeds the taxed profits of the undertakings, and I fear this will be the same in Bolton in a few years.

Internal Audit.

This matter is a very important one, and since our late Secretary (Mr. Collins) wrote his book on the subject, you have been provided with an excellent *vade mecum*. I may say that in Bolton, instead of increasing the staff to cope with the heavy amount of work which this entails, our Council decided to increase the stipend of the professional auditor, and to throw the duty upon him of conducting a continuous internal audit by a professional man independent of any corporation official. I am inclined from our recent experience to hold that this is the more correct, independent, and satisfactory mode of dealing with the matter. I know that in giving this opinion I shall open myself to heavy criticism by many of my brother treasurers, but a treasurer's time can be very much better employed in studying the interests of their corporations on the higher plane of accountancy, &c., as many of us have continuous problems of banking now thrust upon us.

Municipal Corporations and Bank Overdrafts.

Carlisle Town Clerk's Views on a Recent Decision.

(From *The Local Government Chronicle*.)

At the last meeting of the Carlisle Corporation the Finance Committee presented the following report by the

Town Clerk (Mr. A. H. Collingwood) upon the recent case of the *Attorney-General v. De Winton*, to which the attention of the Committee had been called by the city treasurer and the auditors:—

"The extent and effect of the judgment of Mr. Justice Farwell in the recent case of the *Attorney-General v. De Winton* in its application to the existing accounts of the corporation have been misconceived by the city treasurer and the professional auditors. From the facts of the case, which were not in dispute, it appears that the Corporation of Tenby had exhausted all its borrowing powers, and had in addition a large fluctuating overdraft at its bankers in respect of expenses previously incurred. The corporation kept this banking account in the name of the defendant, who was not only the treasurer of the borough, but also the manager of the bank, and the actual custodian of the corporate funds. The account was continuously overdrawn, so that the overdrafts constituted a normal floating debt in respect of which interest with quarterly rests was charged by the bank, and the defendant, in his accounts as borough treasurer, credited himself and debited the borough with these quarterly sums of interest, notwithstanding that no order within the meaning of Section 141 of the Municipal Corporations Act, 1882, for payment of this interest had ever been made by the council. At the date of the institution of the proceedings the overdraft in question amounted to some £4,600, made up as follows:—(a) Harbour Account, (b) District Rate Account, (c) Water Rate Account.

"The Harbour Account represented moneys borrowed in excess of the borrowing powers conferred on the borough by its special Acts and Orders, and in breach and non-observance of the terms and conditions contained in those Acts and Orders. The District Rate Account and Water Rate Account, or such other sums as from time to time represented the same, were borrowed from the bank without the sanction of the Local Government Board, and consisted in the whole, or in part, of expenditure incurred at such dates that it was not competent to the borough to include the amounts thereof in the general district rates made from time to time under Section 210 of the Public Health Act, 1875, in order to raise the money for the payment of charges and expenses incurred at any time within six months before the making of the rate. As the case has no reference to the ordinary corporate accounts, it is unnecessary to refer to the judgment further than to direct attention to the remarks of the learned Judge as to temporary overdrafts which may be necessary to meet the daily necessities of a corporation from time to time. He proceeds: 'I propose to make a declaration that the defendant is not entitled to credit himself or to debit any of the borough funds with interest on any of the overdrafts appearing in the accounts heretofore put in by him

as treasurer since his appointment. If the defendant will state by his counsel that he will not make any similar charges in future, I will accept his statement in lieu of granting an injunction, and give liberty to apply instead. I see no reason to suppose that he will not abide by the decision of the Court, and there would be a practical inconvenience in framing an injunction, because some restriction of the generality of the words in the declaration would be necessary in providing for the future. All overdrafts are in effect borrowings, but if the borough obtain further powers of borrowing in the future they may be in a position to obtain overdrafts within the limits of those powers for daily necessities, as pointed out by Mr. Justice Channell in *Smith v. Southampton Corporation*, and this would have to be provided for by way of exception from the injunction.'

"In the case of *Smith v. The Southampton Corporation* referred to, which was an appeal against the validity of a general district rate, on the ground that old debts contracted in former years, and six months before the making of the rate, had been included in the estimate, both the Lord Chief Justice (Lord Alverstone) and Mr. Justice Channell were careful to distinguish between irregular and consequently illegal accounts and appropriation of revenues and the authorised and regular accounts of a corporation. The Lord Chief Justice, in dealing with a particular item of debt over six months old included in the estimate, proceeds: 'Therefore, unless the corporation were able to show that this was only a mere matter of bookkeeping, and that they were, in fact, meeting accounts out of another purse than that which would be filled by the district rate, there certainly was evidence on which the Recorder was entitled to come to the conclusion that they were paying these debts out of the money so raised.' In the further course of his judgment, he proceeds: 'But I can imagine a case in which the estimate, having been made in a way which *prima facie* would show that the general rate was being raised in order to pay such items as these, the corporation would be able to show that if the accounts were properly arranged and the receipts properly marshalled there was no money coming out of the district rate, as, for instance, the case put in the course of the argument by my brother Channell, of the corporation possessing real property or other property which produced income, which income was not subject to the restrictions to which the general rate was subject, and could consequently be applied to the payment of the debt, therefore, without in any way suggesting that the corporation may not be entitled under certain circumstances so to explain what the estimate would show, I think, when the facts are such as were established in this case, there is a clear breach of Section 210. There is only one other matter I wish to notice. If it had turned out there had been large

payments on Capital Account, and the accounts were complicated by the inclusion of large payments that were so made on Capital Account not properly chargeable against this general district rate, and that this would be met by a further loan, I am not prepared to say that such an illegality as that could be relied on if in fact it was established that the ultimate adjustment of the accounts would not make any of the debts payable out of the general district fund more than six months old. It is not necessary to decide that, but I was impressed with the argument that in that particular case the mere illegality of borrowing might not be sufficient to justify a person in objecting to the rate.'

"Mr. Justice Channell, in the course of his judgment in the same case, in dealing with what may be done under the provisions of different Acts and the provisions as to rating contained in the Public Health Act, proceeds: 'It depends upon the construction of that particular statute as to what may be done. In this particular statute there is a section permitting retrospective payments or retrospective rating to the extent of six months, and the question is what that means. It is evidently intended to prevent the obvious inconvenience that would arise to all these bodies if they were bound to pay, as it were, cash down for every single item of expenditure they incurred. Practically that could not be done, and therefore there is to be a certain limit given to them, and this particular statute gives them limit to the extent of six months.' The same learned Judge, further on in the course of his judgment, says: 'Nothing that I am saying and nothing that my Lord (the Lord Chief Justice) has said would in any way suggest that there would have been anything wrong in that which must as a matter of practice always be done, viz., in having temporary loans within the limit of their borrowing powers in respect of matters which they have to pay quickly when they want to raise a loan, and to raise their whole loan in one sum; as, for instance, by issuing stock, in which case they must incur some small expenditure before they raised their loan. In such a case, obviously a temporary loan from the bankers within the limits of their borrowing powers would, of course, stand upon a totally different footing from such things as have been done here.'

"Dealing with the particular accounts of the corporation referred to with regard to the District and City Fund Accounts, at certain times during the statutory periods for which the general district and city rates respectively are made, and until a sufficient collection can be made to meet the current expenditure of the corporation, a temporary overdraft on these funds is impossible to avoid, and as proper provision is made for the payment of bank interest by the inclusion in the estimates of a sum for that purpose, there can be no objection, as pointed out by Mr. Justice Channell in *Smith v. The Southampton Corporation*,

to such temporary overdrafts being obtained as may be required from time to time to meet the daily necessities of the corporation.

"With regard to the Electricity Account, express provision is made by Section 52 of the Carlisle Provisional Order that any deficiency in income in any year shall be charged upon and payable out of the city fund, and this has hitherto been regularly done at the close of each financial year.

"With regard to the Gasworks Current Account, until a sufficient collection of the accounts in any current half-year is made, a temporary overdraft to meet the current working expenses is unavoidable, and any bank interest which may be paid in respect of any such temporary overdraft is part of the current expenses of working the undertaking, and payable out of the rents and profits as provided by Section 43 of the Carlisle Gas Act, 1850. With regard to the cost of the installation of the water gas plant, for which borrowing powers are not allowed by the Local Government Board, by Section 43 of the Carlisle Gas Act, 1850, it is quite competent for the corporation to appropriate the rents and profits of the gasworks after meeting all current expenses, including the repayments of principal and interest on loans, in improving and enlarging the gasworks; but whether they do so wholly out of the rents and profits of any one year, or by spreading the expenditure in any exceptional case, such as the water gas plant, for which borrowing powers could not be obtained, over a short period of years, is a question of policy to be determined by the council in the management of the works. No question of law appears to be involved as long as such expenditure is met out of the rents and profits as provided by the Act, and not out of such revenues of the corporation as may be subject to statutory restriction."

In the course of the discussion on the report, Mr. Nicholson said that Section 144 of the Municipal Corporation Act, 1882, sets out how deficiencies in the borough fund were to be met, Sub-sections (1) and (2) read as follows:—"(1) If the borough fund is insufficient for the purposes to which it is applicable under this Act or otherwise by law, the council shall from time to time estimate as correctly as may be what amount in addition to the borough fund will be sufficient for those purposes. (2) In order to raise that amount the council shall, subject to the provisions of this Act, from time to time order a rate, to be called a borough rate, to be made in the borough." For several years there was such a deficiency in the fund in Carlisle, and the corporation, not choosing to exercise their power to make up that deficiency by means of a rate, resorted to overdrawing at the bank—in other words, to illegal borrowing, illegal because for a purpose for which they had no statutory power to borrow.

For the money so borrowed the treasurer had been and was being called upon to pay interest, and that interest, he submitted, had been shown by the De Winton judgment to be an illegal payment. The Town Clerk, while accepting the findings of the Courts, held that the Carlisle overdrafts were not affected by those findings. If he accepted Mr. Justice Farwell, that all overdrafts were in effect borrowings; if he accepted Mr. Justice Channell, that all borrowings must have statutory sanction, where did he find statutory power to borrow or overdraw to make good the deficiencies in the city fund, as had been done in Carlisle? If he could not find that statutory sanction, how could he draw a distinction between the position of the Carlisle borough fund and the accounts under the investigation of the Courts in the cases alluded to? However, he assumed the responsibility of saying there was such a distinction, and of advising the corporation to overdraw at the bank to make up any deficiency in the city fund was a perfectly legal proceeding. He was glad that under such circumstances the opinion of the Town Clerk should stand recorded on the minutes, but he believed that the Town Clerk himself would be the last to suggest that we should slacken in our efforts to get rid of these overdrafts.

Mr. White said it was quite evident to him after a careful perusal of the Town Clerk's report that the misconceptions and surmises of the auditors and others entailed no change of policy on the part of this corporation, and he hoped, for his part, that the auditors in future would confine their labours to auditing the accounts of the corporation, and leave those legal questions to their legal adviser, whom they had every reason to trust in matters of law and procedure. In his experience in this council the Town Clerk had never led them wrong yet, and he did not think that the Town Clerk was likely to do so. As the Town Clerk had told them, the judgments at Tenby and Southampton were quite right and quite in order on the state of things disclosed at both those places. But the state of things disclosed at Tenby and Southampton did not apply to the state of things at Carlisle. This corporation's treasurer was not also their banker, as was the case with the official at Tenby, and he did not draw cheques as he thought fit, as the treasurer of Tenby did. The treasurer at Carlisle must have an order of this council, an order on the bank signed by the Chairman of the Finance Committee and two members of the Finance Committee, and countersigned—

Mr. Nicholson: A different form from that.

The Town Clerk: No; three members of the council, countersigned by the Town Clerk.

Mr. White: It is usually the Chairman of the Finance Committee and two members of the Finance Committee; but it was quite right to say any three members of the

town council. It was requisite that they must have three members of the council signing the order on the bank before a cheque would be honoured. Now at Tenby the treasurer was also banker, and he did it all himself in his dual capacity. He drew cheques on one account, paid them into another account without either leave or licence on the part of the Tenby Corporation, which was quite wrong, and the Judges were quite right in putting a stop to it—or rather they did not put a stop to it; they did not issue an injunction, but they said they hoped that after what had passed that the Tenby treasurer "would not do it again." Under the fifth schedule of the Municipal Corporations Act, 1882, there were three small things mentioned which might be paid without an order, but the payment of interest on an overdrawn account was not one of them, and Tenby Corporation ought to have known that.

The Council requested the Town Clerk to further report to the next meeting as to the treasurer's personal liability in respect to the payment by the corporation of interest on overdrafts at their bankers.

Topics of the Day.

Let the Credit Go.

It is impossible to apply the advice of the philosopher poet quite literally to our social system. We cannot "take the cash and let the credit go." Businesses big and little would be sadly hampered if credit were sent packing altogether. Credit is a genuine convenience to some, an absolute necessity to others. There remains, however, a very large section of the public which would profit considerably from a limitation of credit.

The County Court Judge is in a position to realise more than any other man—more even than the experienced Official Receiver—the disadvantages of unlimited credit. Day after day he hears cases in which people of small means have been led into extravagance and irresponsibility by the seeming complaisance of tradesmen. Seeing the settling day far ahead, they have been enabled, to their undoing, to get articles they could not afford, while for the necessities of life perhaps they have been forced to pay far more than the market price. A housewife who exists on credit has forfeited the privilege of bargaining. She must give what the tradesman to whom she owes money chooses to ask. To what extent people of small incomes place themselves in the grip of tradesmen is not sufficiently appreciated. Nor, on the other hand, must the sufferings of a different type of tradesman—the one who does not wish to give credit, and would prefer cash any day to the chance of getting his customers under his thumb—be disregarded. Competition drives many entirely

honest small traders to give credit much against their wills, and often, as any County Court records would conclusively prove, they fall victims to the intolerable procrastination of customers who could pay if they would, but have become habituated to the evil practice of putting off the day of settlement.

From his experience in his County Court of these two types of cases, Judge Tindal Atkinson has been driven to express a hope that very soon the Statute of Limitations will be altered from six years to twelve months, so that tradesmen would have to get in their accounts within the year.

A change of that kind may seem Utopian, yet we see no obstacles to its being made save those erected by custom and convention. Men have so habituated themselves to practically unlimited credit that doubtless, at first sight, the possibility of a twelve months' limit may strike them as preposterous and absurd, a bar to business, and a menace to prosperity. It is really nothing of the sort. So far as small businesses and accounts are concerned—and we leave the consideration of the effect on greater undertakings—it would conduce to honesty and true convenience.

There is little honesty and less comfort in an existence based on the principle of unlimited credit and continued by its aid. The tradesman whose customers are not so much props of his business as slaves to his guile is a speculator who may grow rich by his cunning, but is just as likely to land himself in the Bankruptcy Court. His shop is like a spider's web, which catches many flies, but is liable to be swept away by a searching broom. Because it rests on no secure foundations, it brings him greater anxiety than would be entailed by sound methods of trading. The customers' case is clearer still. For years they may live in bigger houses than their incomes entitle them to. For years they may succeed in dazzling their neighbours. For years they may, to all appearance, enjoy the luxuries of life. But the day comes when an ominous bill is stuck up in front of their homes, when the haunts in which they have flaunted their extravagance know them no more, when they have to crawl away and hide their diminished heads in squalor and misery.

The suburbs of London are full of people who live on unlimited credit. They possess incomes sufficient for a quiet and comfortable life, but they barter that happy prospect for a few years of what they consider splendour—what sensible people know is shiftless folly. Go where you will, those ominous sale boards are to be seen—too often the memorial stones of vanished suburban greatness—too often the evidences of the snare of unlimited credit.

From that snare no class in the community can claim exemption—that is to say, no class which is placed by

limited incomes within the reach of unlimited credit. Middle-class households are caught in the toils; so are working-class; and there have been instances in which the aristocratic home has shown its liability to destruction. The poor, however, pass most deplorably under the yoke. It is they to whom economy is often made impossible by the open hand offering unlimited credit—the open hand which, when the moment comes, can clench so tightly.

Limitation of credit to one year would mean that nobody could get very far out of hand. The honest tradesman would have the best of excuses for tightening his hold on the customer. The guileful tradesman would be deprived to some extent of his potency for evil. Thriftless and careless customers would be saved from themselves. A twelve months' limit would be a Statute of Salvation.

(Evening Standard and St. James's Gazette.)

Meetings for the ensuing Week.

Monday—INSTITUTE OF CHARTERED ACCOUNTANTS.—
Library and Publication Committee, at 2.30 p.m.;
Investigation Committee, at 3 p.m.

Tuesday—INSTITUTE OF CHARTERED ACCOUNTANTS.—
Examination Committee, at 2 p.m.; Students
Societies' Grants Committee, at 3 p.m.

Wednesday—INSTITUTE OF CHARTERED ACCOUNTANTS.—
Finance Committee, at 12.30 p.m.; Council Meeting
at 2 p.m.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, Sept. 21st, was 147, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 75; Deeds of Arrangement registered, 72. The respective numbers in the corresponding week of last year were: Bankruptcies, 81; Deeds of Arrangement, 79—total, 160; being a decrease of 13. The total number of commercial failures recorded during the 38 weeks of the present year is 6,082; the total number recorded in the corresponding 38 weeks of last year was 6,474, showing a decrease of 392.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, Sept. 21st, was 132. The number in the corresponding week of last year was 142, showing a decrease of 10. The total number filed during the 38 weeks of the present year is

5,537; the total number filed in the corresponding 38 weeks of last year was 6,077, showing a decrease of 540.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, Sept. 21st, amounted to £635,895, by way of addition to £1,494,206, previously issued by the same companies. The amount registered in the corresponding week of last year was £829,000, showing a decrease of £193,105. The total amount registered during the 38 weeks of the present year was £61,475,293 (in addition to the issues in previous years by the same companies), as compared with £59,531,345 for the corresponding 38 weeks in 1905, showing an increase of £1,943,948.

The Profession in Scotland.

The Glasgow Chartered Accountants Students' Society.

The Use of Percentages.

By A. HERBERT BROWN, C.A.

AN elementary paper read to the members of the above Society on 11th January.

I have chosen this subject for a lecturette as I thought it would be useful to students as an introduction to the subject, and might help them to arrange the figures in Profit and Loss and other accounts prepared by them in a more intelligent way.

The use of percentages in relation to accounts is not a subject to which much attention is paid in current works on accountancy, nor do all accountants' offices in Glasgow include a note of percentages in Profit and Loss Accounts supplied by them to their clients; indeed, from the arrangement of some of these accounts, it would be quite meaningless to include percentages.

The "Encyclopædia of Accounting" treats of the subject very shortly and very generally, and defines a percentage as "a sum or number signifying a ratio to one hundred," and explains that "allowances, discounts, remunerat o commis-

sion, and such like, are usually expressed as a percentage of some given basis."

A very instructive paper was given by Mr. Richard Brown, C.A., Edinburgh, to the Edinburgh Chartered Accountants Students' Society, on 21st January 1904, on "The Form of Revenue Accounts and Balance Sheets, and the use of Percentages in connection therewith," and in the second part of that paper he deals shortly with the use of percentages.

Now, for all ordinary purposes, any form of Profit and Loss Account is sufficient to show the net profit or loss on a period of trading, and to show, in a fashion, how that profit or loss has been arrived at; but when you wish to compare one year's results with another, you require to arrange your accounts in a somewhat special form. The two main kinds of commercial business we are called on to audit are (1) a manufacturer's, and (2) a merchant's (or middleman's). Sometimes we come across a business which is partly manufacturer's and partly merchant's. In a manufacturing business the raw material is bought, and by means of the labour spent on it, is converted into a finished article; while in a merchant's business the finished article is bought and sold again without any direct expenditure of labour on it at all. In the one case the profit is made on the production, and in the other on the turnover.

Let us take the case of a manufacturing business, and first let me explain how the amount of goods produced is arrived at. You must remember that in this case, in order to compare one year's charges with another, the result we wish to arrive at is to find the percentage ratio of purchases, wages, charges, &c., to the production. Very often you see in a Trading Account the stock at commencement (raw materials, work in progress, and finished goods) debited in a lump sum and the stock at close in the same way credited, but this method of treatment will not suit our purpose. The stocks on hand, of different raw materials, work in progress, and finished goods, must be classified, and each treated in its proper account. What is required is, first, on the credit side the amount for goods manufactured during the period, and second, on the debit side the cost of that manufacture in labour, raw materials, and charges.

The following is a *pro forma* statement of Trading Account and Profit and Loss Account in a manufacturer's business, with the percentage which each item bears to the amount of manufacture. You must bear in mind that any large fluctuations in the quantity of manufactured stock from year to year will affect the percentages, but in most businesses the stock of finished goods does not vary greatly from year to year, and the results are quite reliable for comparative purposes.

I.—TRADING ACCOUNT OF MANUFACTURER, YEAR 1903.

	%	£	s	d		%	£	s	d
To Flour used	25'00	5,000	0	0	By Manufacture of Biscuits for year	100'00	20,000	0	0
• Butter, Lard, &c. .. .	10'00	2,000	0	0					
• Sugar, Syrup, &c. .. .	10'00	2,000	0	0					
• Fruits and Spices, &c. .. .	5'00	1,000	0	0					
• Wages	50'00	10,000	0	0					
• Depreciation	15'00	3,000	0	0					
• Repairs Plant	2'50	500	0	0					
• Power, Fuel, Light, Rent, &c., of Factory ..	10'00	2,000	0	0					
• Balance to Profit and Loss Account	78'00	15,600	0	0					
	22'00	4,400	0	0					
	100'00	£20,000	0	0		100'00	£20,000	0	0

The amount of £20,000 for goods manufactured is arrived at thus :—

Sales for period, say	£20,196	0	0
Add Stock of manufactured Goods on hand at close (at cost)	910	0	0
Less Stock of manufactured Goods on hand at commencement (at cost) ..	21,106	0	0
	1,106	0	0
Giving manufacture for year	£20,000	0	0

On which amount the percentages are calculated.

On the debit side of the above account the first item is

"Flour used, £5,000," and this figure is arrived at thus :—

Stock of Flour at commencement, say ..	£900	0	0
Add Purchases for year	5,300	0	0
	6,200	0	0
Deduct Stock of Flour at close	1,200	0	0
Leaving actual cost of Flour used	£5,000	0	0

equal to 25 per cent. on the manufacture. The other materials are treated in an exactly similar fashion in order to get in each case the actual cost of the material used. Wages and Rent, &c., are adjusted to date, each in its proper account.

In the foregoing example

The Cost of Materials = 50% of the Manufacture

" " in Wages = 15% " "

i.e. the Prime Cost = 65% " "

The Direct Oncost = 13% " "

making in all 78% " "

leaving 22 per cent. to be carried forward to the Profit and Loss Account.

The following is the *pro forma* Profit and Loss Account relative to the foregoing :—

II.—PROFIT AND LOSS ACCOUNT OF MANUFACTURER, YEAR 1903.

	%	£	s	d		%	£	s	d
To Salaries	8'00	1,600	0	0	By Balance from Trading Account	22'00	4,400	0	0
• Rent, Taxes, Insurance, &c. (Office) .. .	2'50	500	0	0					
• General Charges	1'50	300	0	0					
• Bad Debts	1'50	300	0	0					
• Discounts	2'50	500	0	0					
• Balance, carried to Balance Sheet	16'00	3,200	0	0					
	6'00	1,200	0	0					
	22'00	£4,400	0	0		22'00	£4,400	0	0

The credit side shows simply the balance brought from Trading Account; the debit side, the indirect charges against the manufacture, all the items being, of course, adjusted in their respective accounts to date of balance. The net profit brought out is £1,200, equal to 6 per cent. on the manufacture for the year. Putting the matter shortly, we may tabulate the results in the foregoing examples, thus :—

	On Manufacture.
Prime Cost	65%
Direct Oncost	13%
Indirect Oncost	16%
	94%
Profit	6%

In other words, out of every £100 of goods manufactured £6 is profit.

In working out these percentages each item on the debit side is multiplied by 100 and divided by the production of £20,000. The example given requires no calculation, but in cases arising in the course of business your divisor may be some ungainly figure, and, as this divisor is constant, the easy method is to make a short table of multiplication. Thus, suppose your production was £67,987 19s. 8d., you would make up your table in this way:—

$$1 \times 67,988 = 67,988$$

$$2 \times 67,988 = 135,976$$

$$3 \times 67,988 = 203,964$$

and so on up to $9 \times 67,988 = 611,892$

That, then, is one way of arriving at a basis of comparison of the results of one year with another. Another method is to calculate the cost per unit of manufacture.

I refer you for the details of the next example to Mr. Richard Brown's lecture, already referred to, which is published in the "Accountant's Magazine" for March 1904. In this example the business is that of a paper manufacturer, and the following is the Revenue Account for the year:—

III.—REVENUE ACCOUNT (PAPER MANUFACTURER).

	Pence per lb.	£	s	d		Pence per lb.	£	s	d
To Materials, Wages, &c.	2'04	34,000	0	0	By Paper Account	3	50,000	0	0
• Carriages, Packing, Salaries, &c.	'315	5,250	0	0					
• Income Tax	'03	500	0	0					
• Balance, being Divisible Profit for Year	2'385	39,750	0	0					
	'615	10,250	0	0					
	3	£50,000	0	0		3	£50,000	0	0

In the foregoing the average price realised per lb. of paper manufactured is 3d., the prime cost of manufacture is 2'04d. per lb., the oncost is '345d. per lb., and the profit '615d. per lb.

This method of comparison is very closely allied to the question of Costing. For example, in the case of a colliery company, Cost Sheets are made up every fortnight for each pit, the cost being calculated per ton on the output of coal raised during the fortnight, in wages, stores, royalties, general charges, &c., the general oncost (or establishment charges) being calculated on the average of the preceding year. The deliveries of coal for the month can readily be ascertained, and the average price realised per ton calculated, so that a coal company can tell at the end of each fortnight whether a certain pit or seam shows a profit or loss on that fortnight's working.

The following is a *pro forma* Cost Sheet of a colliery:—

IV. No. 1 PIT.

COST SHEET fortnight ending.....190..

I. OUTPUT for fortnight	1,050 tons.
Less used for Engines	50 "
Available for disposal	1,000 tons.

II. Cost:—

	Cost per ton in pence	Wages and Charges
		£ s d
Wages (getting and loading)	39'0	162 10 0
Do. (underground oncost)	6'72	28 0 0
Do. (above-ground do.)	4'8	20 0 0
Pitwood and other Colliery Stores	50'52	210 10 0
Horses, Ponies, and Cartage	6'31	26 6 0
Royalty and Wayleave (at 9d per ton on net output)	2'16	9 0 0
General Oncost:—	9'5	39 11 8
Rents, Taxes, and Insurance	1'08	4 10 0
Repairs	2'4	10 0 0
Depreciation	'72	3 0 0
Surface Damage	"	"
Sundry other Charges	1'2	5 0 0
Office and Administration Expenses	2'0	8 6 8
Total of Wages and Charges		£316 4 4
Cost per ton on Output (in pence)	75'89	

(NOTE.—The items under "General Oncost" are based on the figures for the last complete year.)

The Cost Sheets at the end of each year are reconciled with the Profit and Loss Account, and form a check on that account which an auditor should not neglect.

You all remember the excellent lecture given by Mr. James Dalrymple, C.A., the general manager of our

Corporation tramways. If you study that lecture carefully you will see how useful it is to reduce income and expenditure to some common basis. For example, in the Revenue Account of the Tramways Department for the year to 31st May 1904—

The traffic revenue per car mile run averaged	10'576d.
And sundry other receipts	088d.
Total revenue per car mile run	10'664d.
The working expenses per car mile run averaged	5'243d.
Sinking Fund, Depreciation, and Interest averaged	3'862d.
	9'105d.
Leaving net profit per car mile run	1'559d.

So that the Tramway Department are able at once to see whether a car has been run at a profit or a loss on any of its journeys, and restrict the service of cars on any route that does not pay.

With regard to a merchant's business the profit is made on the turnover—the more he sells the greater his profit should be. The percentage of cost, &c., must therefore be calculated on the sales, after deduction of returns; the cost of purchases sold must be ascertained by taking the goods purchased, adding the stock at commencement, and deducting from the total thus arrived at the stock at close of the period, this gives the exact cost of goods sold during the period. The other charges are adjusted to date, and the percentage of each item is calculated on the sales.

The following is a *pro forma* Profit and Loss Account of a merchant's business:—

V.—PROFIT AND LOSS ACCOUNT OF MERCHANT'S BUSINESS.

	%	£	s	d		%	£	s	d
To Purchases	80'0	40,000	0	0	By Sales, less Returns.. .. .	100'0	50,000	0	0
Wages and Salaries	7'0	3,500	0	0					
Rent, Taxes, &c.	4'0	1,000	0	0					
General Charges	1'6	800	0	0					
Bad Debts	1'0	500	0	0					
	91'6	45,800	0	0					
Balance, being Net Profit for Year	8'4	4,200	0	0					
	100'0	£50,000	0	0		100'0	£50,000	0	0

The real utility of percentages is, of course, to compare one year's results with another, and the following is a *pro*

forma Comparative Trading Account for the years 1903 and 1904:—

VI.—COMPARATIVE TRADING ACCOUNT FOR YEARS 1903 AND 1904.

	Percentage		1903	1904		Percentage		1903	1904
	1903	1904				1903	1904		
To Flour used	25'0	26'0	£ 5,000	£ 7,800	By Manufacture of Biscuits, &c., for year	100'0	100'0	£ 20,000	£ 30,000
Butter, Lard, &c.	10'0	10'0	2,000	3,000					
Sugar, Syrup, &c.	10'0	12'0	2,000	3,600					
Fruits, Spices, &c... .. .	5'0	6'0	1,000	1,800					
	50'0	54'0	10,000	16,200					
Wages	15'0	13'0	3,000	3,900					
	65'0	67'0	13,000	20,100					
Depreciation.. .. .	2'5	1'6	500	480					
Repairs to Plant	5	1'0	100	300					
Power, Fuel, &c.	3'5	3'0	700	900					
Rent, Taxes, &c. of Factory	6'5	4'9	1,300	1,470					
	78'0	77'5	15,600	23,250					
Balance to Profit and Loss Account	22'0	22'5	4,400	6,750					
	100'0	100'0	£20,000	£30,000		100'0	100'0	£20,000	£30,000

It is usual to make a report on these percentage results, comparing the one year with the other and remarking on any exceptional differences, and then to talk it over with the manager or managing director of the business. For example, in the foregoing you would call attention to the rise in the price of raw material, and the manager would explain that the currant crop had been a failure and he had had to pay

a largely increased price; that he had had to pay 2s. a quarter more in the last few months of the year for his flour; and with regard to sugar, that these Protectionists would soon ruin the trade of the country, that the Sugar Bounties Convention was an iniquitous thing, and if things went much further he would have no profits at all.

You would point out that his percentage of oncost was diminishing on account of his increased output, and he would

invite you to look at his rent and taxes, and make a few pointed remarks on landlords in general, also on taxes levied by our progressive Corporation.

You must remember that the figures in these *pro forma* statements are purely fictitious, but they show you how they are prepared and the figures in them arranged, although they may not be consistent with figures in actual business.

These comparative statements are of exceptional value to the manufacturer and merchant, if he has the best interests of his business at heart and can be moved out of his groove. We all know of the trader who cared nothing for those "new-fangled" ideas of Profit and Loss Accounts; all he wanted to know was how much he had in the bank from year to year.

It is little use putting the corresponding figures of last year's Trading Account down the margin in red ink, unless the amount of sales or manufacture has been the same each year, which practically never happens. The only intelligible method is to bring the figures in the account to a common ratio, either by ascertaining what percentage the costs bear to the sales or manufacture, or by taking a unit of weight and calculating the price realised per that unit on the one side, and the charges per unit on the other.

Just one word more on the charges a Trading Account should contain. Almost every accountant has a different theory, but I think if you make it a rule to put into the Trading Account (1) all items directly connected with the production (*i.e.*, labour and materials), and (2) all direct oncost, and put into the Profit and Loss Account all indirect oncost, you will not be very far wrong. Another way is to include in the Trading Account the cost of production only (labour and materials), and to divide the Profit and Loss Account into two sections, in the first of which put the direct oncost, and in the second all indirect oncost.

The application of percentages to Balance Sheets is scarcely of so much use as in Trading Accounts, still it shows the ratio of working capital to the total assets from year to year, relative ratio of reserve, balance of profit or loss, &c. The method is to calculate the percentage ratio of the various items to the total addition of the Balance Sheet, and in this way compare these items with the corresponding percentages of previous years. It is also useful in comparing the Balance Sheets of one company with others in the same class of business, but you must not use the method indiscriminately, as it would serve no practical purpose to compare (say) a bank Balance Sheet with that of a colliery company.

Now, gentlemen, I have only touched the fringe of this subject in this very rough paper, but if you make more use of percentages in the various statements prepared by you, you will find the results of decided interest and of value to yourselves and your clients.

Personal.

Mr. R. Davidson Dickie has begun business as a Chartered Accountant in Aberdeen.

Society of Accountants in Edinburgh.

A circular has been issued by Mr. Richard Brown, C.A., the Secretary of the Society of Accountants in Edinburgh,

stating that the following evening classes for apprentices will be conducted in the Hall, No. 27 Queen Street, commencing on the date stated, and will meet weekly until Christmas:—

Bookkeeping and Accounts, conducted by Mr. F. A. Ross, C.A., F.F.A., on Wednesday evenings at 8, and commencing on 3rd October. This class is intended for apprentices in the first or second year.

Political Economy, conducted by Mr. Archibald B. Clark, M.A., on Monday evenings at 8, and commencing on 1st October.

Law of Scotland, conducted by Mr. W. Kinniburgh Morton, B.L., S.S.C., on Tuesday evenings at 8, and commencing on 2nd October.

The fees payable will be 10s. 6d. for each class per quarter.

The Profession in Ireland.

Society of Incorporated Accountants and Auditors in Ireland.

THE annual general meeting of the Irish Branch was held on the 17th September at the offices of the Society, 12 College Green, Dublin. There was a fair attendance of members. The President, Mr. Edward Kevans, J.P., A.C.A., in submitting the Report and Statement of Account, made the following remarks:—

The year that has elapsed since last I had the pleasure of presiding at our annual meeting has not been marked by any step forward on the road leading to the proper recognition of the profession of accountants in the United Kingdom. It is true that a further attempt was made by the English Chartered Institute to get their Bill through Parliament, but it met the same fate as other previous efforts of the kind. I need hardly point out how regrettable it is that concerted action cannot be taken by the leading Societies of the United Kingdom, without which it is impossible to think that success can be attained; and I have more than once pointed out this is equally regrettable from the point of view of the public and of the members of our profession. I may remind you that Irish accountants approve of the principle of the Bill introduced into Parliament by the Scottish Chartered bodies and the Society of Accountants and Auditors; and as an humble member of the English Institute of Accountants, which I may describe as the predominant partner in the profession in the United Kingdom, I take the liberty of suggesting that it should try to devise some better solution of the matter, and, if it does, I have no doubt that the Society of Accountants and Auditors, and the other Societies of Accountants in the United Kingdom, will do everything possible to assist the passing through Parliament of any Bill which will meet with their approval.

With reference to any further action that may be taken in that direction, I would point out the advisability of giving serious consideration to the remarks made by Mr. Harry Gibson at the annual meeting of the Transvaal Branch of the Society of Accountants and Auditors, held at Cape Town on the 3rd August 1906. In his interesting speech he explained the preliminary steps taken for the organisation of the accountants in South Africa, and how

the South African Committee came to be formed. He then went on to say:—

"There were difficulties, of course, but they were surmounted, and have been almost forgotten now in the smooth working which has ensued. As a fact, the leading men joined our organisation as well as retaining membership of their own, and it is not unpleasing to us to remember that the first chairman of the new branch of the Society was a Chartered Accountant. Later on the Transvaal organisation promoted a Bill in the Legislative Council of that Colony for the recognition of accountancy as a profession. If I may say so, they acted wisely then in drafting their measure on broad and liberal lines. They recognised that no Legislature could be expected to entertain any proposal which would in any way tend to deprive a man of the living he was making. The Bill, therefore, provided that everyone who was at the time of its passing practising *bond fide* as an accountant should be entitled to be registered under the Bill, but that afterwards no one should start as an accountant except those who could give satisfactory evidence of their qualifications. The necessary machinery for this was provided in the Bill, which eventually became law, and, so far as the Transvaal is concerned, the paperhanger and shoemaker mentioned by our friend (Colonel Crowe) would have no chance of describing themselves as accountants. We, as members of the Society of Accountants and Auditors, have not a little reason to be proud of the fact that it was our body which promoted that Bill, and that the Transvaal has been the first portion of the Empire to recognise accountancy as a profession. Steps towards the same end are in view in Natal, and it is to be hoped that steps will be taken in this Colony at a very early date to follow the example set in the Transvaal. When our own Parliament does deal with the question, I sincerely trust they will do so on the broad general lines adopted in the sister Colony. We want no monopoly for our own Society, but we do want accountancy, as a whole, to be under proper control, as is the case with the professions of law, medicine, and surveying. We do not desire to take the bread out of the mouth of any man who is at the present time earning it as an accountant, but we do think it is for the public good that in future there should be some means of seeing that only duly qualified men should be allowed to start, and we welcome the Chartered Accountants here to-night as a sign that we have their sympathy in our efforts for the profession generally."

Mr. Gibson's remarks have the fullest application to any attempt that may be made to secure for the accountants of the United Kingdom what our Colonial friends have obtained.

I am very pleased to state that the change which was made in allowing the Irish applicants for membership of the Society to sit for their examinations in Dublin has been the means of bringing many candidates forward who otherwise would not have presented themselves; and at our last June Examinations the five candidates who presented themselves for examination all passed.

Of course, our members are all aware of the Autumnal Meeting to be held on the 3rd, 4th, and 5th prox., in

London, to celebrate the twenty-first anniversary of the incorporation of the Society, and amongst the many functions which are to take place on that interesting occasion not the least will be the reception which the Lord Mayor of London is to give to the members attending same, and their ladies. I trust, therefore, that every member of the Irish branch of the Society who can possibly do so will arrange to attend the Conference.

I should not omit to refer to the gracious way in which his Excellency the Lord Lieutenant received the deputation from the Committee on the occasion of the presentation of the address on his again taking up the Viceroyalty, and to the very complimentary manner in which he referred to the aims of our Society and the work done by it. His remarks as to the wide field over which the Society has spread its membership are particularly gratifying, for he said:—

"Yours is an organisation which seems to have its ramifications in all parts of the world—an interesting and significant feature."

Mr. Kevans then proposed, and Mr. Stapleton seconded, the adoption of the Report and Accounts, which were passed unanimously.

The retiring member of the Committee, Mr. H. B. Brandon, was unanimously re-elected, as were also the President (Mr. Ed. Kevans), Vice-President (Mr. M. J. Stapleton), Hon. Treasurer (Mr. R. Stephen), and Hon. Auditor (Mr. T. H. Cruise).

Mr. J. A. Kinnear was elected a member of the Committee.

It was unanimously resolved to invite the Council of the Incorporated Accountants to hold their next Autumnal Conference at Dublin.

The proceedings then terminated with a vote of thanks to the Chairman.

Bank Rate of Discount.

April 5th 1906	..	..	..	..	..	..	3½%
May 4th ..	..	..	..	..	..	..	4%
June 21st ..	..	..	..	..	..	..	3½%
Sept. 13th ..	..	..	..	..	..	..	4%

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The Accountant

THE RECOGNISED WEEKLY ORGAN OF CHARTERED ACCOUNTANTS

AND

ACCOUNTANCY THROUGHOUT THE WORLD.

VOL. XXXV.—NEW SERIES.—No. 1661.]

SATURDAY, OCTOBER 6, 1906.

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Extract from *Auditing*, by LAWRENCE R. DICKSEE, F.C.A.
(Page 190)

Licensed Houses present some rather special features. The goodwill attaching to the license gives the lease or freehold of licensed premises a market value greatly in excess of their real value as buildings. To be properly considered, the value of the premises and the license must be separated. The former should be depreciated in the usual way, leaving the license alone to be considered. A license on freehold premises does not depreciate, but a license on leasehold premises passes away with the premises and must therefore be depreciated like a lease. A license may at any time be lost—either for misconduct or for no reason—but this is a contingency outside the scope of depreciation. It may, however, be provided against by Insurance, which would appear to be a most prudent course to adopt.

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EXAMINATIONS.

THE next Examinations will be held on the following dates:—

The Intermediate Examination on the 20th and 21st November 1906.

The Final Examination on the 27th 28th, and 29th November 1906.

The Preliminary Examination on the 4th, 5th, and 6th December 1906.

Persons desiring to present themselves for examination must give notice to the Council at least thirty days before the date of the Examinations, at the same time forwarding the examination fee.

Full particulars and forms may be obtained at the office of the Institute, Moorgate Place, London, E.C., and at the various Branch Libraries.

By order of the Council,

GEORGE COLVILLE,

Secretary.

October 1906.

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Leading Articles.

The Companies (Winding-up) Report.—II.

IT is not a little amusing to observe, in connection with this Report, that Mr. BARNES has now come to the conclusion suggested by us some few years since, that there must be some cause for the decreased number of prospectuses issued by new companies during the past few years other than the Companies Act, 1900. He has at last had his eyes opened to the facts by a table supplied by

the Secretary of the Stock Exchange Committee showing that of the companies applying to the Committee for special settlement the percentage of those which have issued no prospectus to the total of companies applying was for all practical purposes the same for the first half of the present year as in the last half of 1900—*i.e.*, before the 1900 Act came into operation—the precise figures being 30 per cent. and 31 per cent. respectively for the two periods named. The actual facts being thus brought to his attention, the Comptroller must, of course, obviously come to the conclusion that inasmuch as the percentage during the years 1902-4 ran as high as 68 per cent., it must be attributed to causes other than those which obtained throughout the whole of the past six years. Probably, anyone less out of touch with actual practice than a Government official would have recognised the existence of this other cause—namely, the scarcity of money for investment—without requiring to have his attention specially directed to it from outside. For our own part, however, we are by no means satisfied that the table supplied by the Secretary of the Stock Exchange Committee entirely meets the requirements of the situation. What is wanted is not so much a table of companies with and without a prospectus respectively applying to the Committee of the Stock Exchange for special settlement, but a table of companies in respect of which applications for a special settlement were made, whether by the company itself or by any other person. It is possible, of course, that the figures as thus revised would be for all practical purposes identical with those put forward; but it is, on the other hand, quite conceivable that they may very materially

differ. The importance of the distinction would come in in this way: where an application for a special settlement is made by someone other than the company, the probabilities are that there is something connected with the formation of that company which should be of very special interest to Mr. BARNES and those concerned in the same form of inquiry.

With regard to the remainder of the Report, all the most interesting points have already been dealt with by the Company Law Committee, and need not, therefore, be referred to again. Before concluding this article, however, we should like to draw attention to the considerable increase that has taken place of late in the number of cases in which a winding-up order is followed by the appointment of a liquidator other than the Official Receiver. Thus the first annual report for the year ended 31st December 1891 showed that 97 orders had been made in the High Court, which resulted in the appointment of Official Receivers as liquidators in 82 cases and of non-official liquidators in 14 cases, one winding-up order being subsequently rescinded. The percentage of non-official liquidatorships to orders was thus about 14½ per cent. for the year 1891. In 1905 there were 53 winding-up orders in the High Court that were proceeded with. Official Receivers were appointed in 33 cases, and non-official liquidators in 20 cases, a percentage of 38¼ per cent. So far as County Court cases are concerned, the position is practically stationary, non-official liquidators being appointed in 43 per cent. of the cases in both years. It must be borne in mind, however, that it is quite exceptional for a company to be wound up in the County Court which presents features of

sufficient importance to justify the employment of a non-official liquidator. The fact, therefore, that so large a percentage of such liquidators has been appointed throughout shows that, in connection with High Court cases, what may be described as the personal influence of Carey Street is at least as important a factor as the business requirements of the situation. This personal influence is now undoubtedly, and has for several years past been, steadily upon the wane.

Another aspect of this same tendency is to be noted in the relative proportions of compulsory and voluntary liquidations. In 1891 compulsory liquidations represented 14 per cent. of the total liquidations, but with very few exceptions each successive year has shown a steady decrease in the popularity of compulsory liquidations, which in 1905 were only 5 per cent. of the total, and have not for the past ten years exceeded 7 per cent. If the truth be told, however, the Acts of 1890 and 1900 appear to provide all necessary control over voluntary liquidators, save, perhaps, that it is desirable that they should as a matter of course be required to give security; and, if it could be arranged without the excessive charges at present exacted, there might be a good deal to be said in favour of requiring them to pay all moneys into the Bank of England as in the case of bankruptcies. For all ordinary purposes, however, it must be admitted that the system of winding-up companies by officials has, after a somewhat expensive trial, been proved an absolute failure, and it would doubtless have been abandoned long ago, and the Department disbanded, but for the fact that when Government posts have once been created it is always extremely difficult to get them abolished, in that both political parties

value, and cling tenaciously to, the patronage which these appointments represent.

The Revised Table "A."—I.

AS we mentioned in our last issue, under the powers conferred by Section 21 of the Companies Act, 1862, the Board of Trade has issued a *Gazette* notice substituting the revised Table A (drafted by Mr. R. J. PARKER and Mr. A. C. CLAUSON), which was approved by the Company Law Amendment Committee, for that appended to the Companies Act, 1862. The text of the revised Table was given in our issue of the 28th July last, as it then appeared, in the form of an appendix to the Committee's Report. It is, therefore, unnecessary for us to reproduce it now. It will, as from the 1st inst., represent the articles of association of all companies thereafter registered without special articles. We think it desirable, however, to draw attention to a few of the somewhat numerous alterations effected by this change.

Clause 23 provides that a person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages as if he were the registered holder, save that until he is registered as a member in respect of the share he shall have no right of voting or of attending meetings in respect thereof. This is a new and entirely convenient arrangement. Executors and trustees in bankruptcy will be enabled to collect dividends or to transfer shares without being called upon to accept the position and liabilities of a member; but, if they elect to adopt this course, they will be barred from the privilege, such as it

may be, of participating in the control of the company.

Clause 46 prescribes a definite date for the annual general meeting—namely, the month following the anniversary of the company's incorporation—and in the event of there being default in the holding of such meeting it permits it to be convened by any two directors. This is a great improvement upon Section 49 of the 1862 Act, which merely required a general meeting to be held in every calendar year. Upon the other hand it steers clear of the absurdly unpractical stipulation in Clause 30 of the old Table, that in the absence of a resolution to the contrary passed in general meeting, ordinary general meetings were to be held on the first Monday in February every year. One shudders to think of what might happen if even a comparatively small minority of the registered companies were to all hold their annual meeting upon the same day. At the same time the provision enabling any two members to themselves expeditiously and inexpensively convene a general meeting, if the directors neglect to do so, is an enormous improvement upon the cumbersome process of a requisition to directors to convene an extraordinary general meeting, with a right to apply in an action for a mandamus in the event of the requisition not being complied with. The anomalous position formerly obtaining, that no "ordinary" general meeting could ever be held against the wishes of the board, has now been done away with.

Clause 51 abolishes the ridiculous provisions of the old Clause 37 as to quorum; conditions which were found practically impossible of fulfilment, and were, perhaps, only less ridiculous than those frequently enforced upon parliamentary companies which make the

quorum dependent upon the amount of capital issued. We know of at least one case in which the quorum at a general meeting exceeds the total number of members of the company. Clause 51, however, fixes the quorum at three members, which, regarded as a minimum, is no doubt the most convenient figure. It is, however, entirely inconsistent with Clause 56, which provides that no poll can be demanded in respect of a special or extraordinary resolution by less than five members personally present. This would appear to be a slip that might well have been corrected before the new Table was enacted, if the Board of Trade had granted reasonable facilities for discussion before taking action.

The cumbersome and entirely illogical sliding-scale for votes of members provided for under the original Table is superseded by Clause 60, which, following what may be described as the almost invariable practice of the present day, provides that on a show of hands every member present in person shall have one vote, but on a poll every member shall have one vote in respect of each share that he holds. This is probably as far as it will be practicable for model articles to go, but it is quite an open question whether articles depriving holders of certain classes of shares of all voting power ought to be permitted. Of course, it would not be practicable for any modifications of Table A to deal with this question.

Clause 70 fixes the qualification of directors as the holding of at least one share. It may be questioned, however, whether there is much practical utility in this. So small a holding is no guarantee that the director has any substantial interest in the company beyond his director's fees, and we are not sure that

we do not prefer the absence of any provision as to qualification which obtained under the old Table. The only possible argument in favour of a one-share qualification is that it makes the obtaining of a quorum at general meetings a comparatively simple matter. We question, however, whether the innovation was introduced for that reason.

Clause 73 limits the borrowing powers of a company to an amount equal to its issued capital for the time being, unless the sanction of the company in general meeting has been first obtained. There is a good deal to be said in favour of a general limitation of a company's borrowing powers upon some such lines as this, but the expediency of permitting directors under normal circumstances to borrow to so large an extent without first obtaining the sanction of the company in general meeting may well be questioned. The clause also strikes us as being defective on account of its uncertainty. The words employed are "The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company otherwise than by the issue of share capital shall not," &c. Difficulties might easily be raised as to where the line was to be drawn between "moneys borrowed or raised" and liabilities incurred, and the position of the creditor when the borrowing powers of the company have been exceeded is by no means clearly defined.

Solicitors and Trust Moneys.

OUR contemporary *Truth* is responsible for the statement that a Bill has been drafted for the amendment of the Solicitors' Acts, and will be laid before the Departmental Com-

mittee on the Bankruptcy Acts for its consideration, the scope and purpose of which is to make provision for the better security of moneys deposited with, or entrusted to, solicitors. We do not pretend to know what (if any) opportunities our contemporary may have of ascertaining the procedure of a Departmental Committee which has not yet concluded its deliberations, and not even commenced to consider its report, but the news seems to be taken seriously—perhaps even unnecessarily seriously—by *The Solicitors' Journal*. That being so, it is perhaps as well to consider it upon its merits. The course seems the more reasonable in that there is an inherent probability about the matter, for the contents of this supposed Bill are just what we should imagine would be the contents of a measure drafted at the instance of the Board of Trade with a view to dealing with the problem under consideration.

Shortly stated the Bill, which is said to have been drafted by Mr. E. G. JELICOE (who has, we are told, also drafted a new Bankruptcy Bill), provides that in future all moneys received by a solicitor for or on behalf of any person shall be held by him exclusively for such person, to be paid to him or as he shall direct, and in the meantime shall be paid into a recognised bank, either to a general or a separate Trust Account, and shall not be available for payment of the debts of any other creditor of such solicitor, nor be liable to be attached or taken in execution. We do not envy anyone the task of unravelling the general Trust Account of an insolvent solicitor with a view to seeing how the balance of that account is to be divided among the trust creditors in the event of there being insufficient to pay all in full. But there can be no

serious objection to this specific enforcement of what we take to be an existing statutory requirement that solicitors—like other persons when occupying a position of trust—must not apply trust funds for their own purposes, or even mix them up with their own moneys. In 1900 a special Committee of the Incorporated Law Society, after carefully considering the matter, reported that it was important for solicitors to remember that they were not bankers, and ought not to use clients' money in their hands. "Where accounts are carefully and properly kept," this report went on, "the books speak for themselves, and there is no absolute necessity for any separate Banking Account to secure this," but it was added that many solicitors do keep a separate Banking Account for their clients' money, and that, in the opinion of the Committee, it was very desirable as far as possible that this course should be adopted, in addition to the careful keeping of accounts. In Vol. XII., "Accountants' Library," it was shown, so far as we are aware for the first time, how the double Banking Account might be introduced without in any way complicating matters, and since that date other writers have followed upon the same lines. Quite recently Mr. HUGHES ONSLOW has issued a "Lawyer's Manual of Book-keeping"—which is one of the prescribed text-books for solicitors' examinations—that describes a system for all practical purposes identical; and it may thus be assumed, we think, that the Council of the Law Society officially approves of the separate Banking Account for clients' moneys, and that it is doing its best to educate the next generation of solicitors on these lines. The system has, moreover, been proved to be perfectly practicable,

and not to introduce additional complications in any reasonable system of accounts. Under these circumstances it may well be questioned whether any very urgent need for legislation exists; but at the same time, if even a Departmental Committee should think otherwise, we doubt whether either the Council of the Law Society or solicitors generally would be well advised to throw difficulties in the way. As we have frequently stated in these columns, we think it very desirable that solicitors should keep trust moneys quite separate from their own, and unless this system be voluntarily adopted, legislation upon the matter would be desirable. While, therefore, we feel some sympathy with the view adopted by *The Solicitors' Journal*, that no case has been made out for legislation, it being generally admitted that what it is proposed to prescribe is desirable, we see no reason whatever why, if the Bill has been drafted, it should not also be passed.

With regard to the penalties provided for breach of these regulations, while admitting the absurdity of laying down rules and at the same time leaving everyone free to disregard them, we must confess that we think a penalty not exceeding one hundred pounds for the first offence, liability to suspension for the second offence, and liability to be struck off the rolls for the third offence, seem to us unnecessarily drastic. We can quite conceive cases in which money is received by a solicitor under circumstances that make it an open question whether that money belongs to the solicitor or to a client; and, again, it seems absurd to invoke such serious penalties where only insignificant sums are involved. In all cases, moreover, a reasonable amount of time must be allowed for payment into the

Trust Account, if grave injustice is to be avoided. And when all these points have been taken into consideration—as they must be before any fair measure can be enacted—the question may well be raised whether such an Act would really provide all the safeguards that it appears to be intended to create.

The most debatable portion of the Bill, however, is, we think, Clause 3, which is stated to provide that every solicitor shall keep proper books of account showing his dealings with all persons with whom he may have business relationship, and shall at such times, not less than twice in each year, as may be provided by the Board of Trade, send to the Board an Account of his Receipts and Payments in the prescribed form, verified by statutory declaration, which account shall be audited by the Board of Trade; the solicitor furnishing such vouchers and information as may be necessary for that purpose, and allowing inspection of his books and accounts at all times to the Board's representatives.

We are unhesitatingly opposed to the idea of an official audit because we are convinced that in practice it would afford absolutely no safeguard to the public, while by creating an appearance of security it would naturally have the effect of discouraging vigilance on the part of individual clients. We may safely leave it for the legal profession to formulate its own objections to submitting books and accounts for audit to Government officials, who are to be empowered to ask all sorts of questions as to the circumstances under which moneys were received or paid by the solicitor—questions which, in the nature of things, can in many cases only be answered if a client's confidence be grossly betrayed. Whoever may be responsible for this Bill seems to have entirely

overlooked the fact that although from one point of view it may be said that solicitors are in the habit of receiving and disbursing the money of the public, they do not receive and disburse public moneys. On the contrary, the majority of their transactions on behalf of clients are confidential, and if an Act were to be passed compelling solicitors to in all cases disclose to Government officials the exact nature of their business with their clients and their various clients' business with others, the inevitable result would be that much of the confidential work which is at present conducted—and very properly conducted—by solicitors, would have to be transferred to other agents who are far less amenable to control than officers of the Court are at the present time. The scheme is, of course, not rendered the more practicable by a clause providing that under certain circumstances the solicitor's accounts of receipts and payments should be open to the inspection of the public.

In spite of our experience of Board of Trade methods in the past, we must confess that for ourselves we feel a little sceptical with regard to the whole matter, and, indeed, rather wonder whether *Truth* is not playing a practical joke upon our legal contemporaries. However that may be, and even supposing the announcement is what diplomatists call "premature," it represents, as we have already stated, so exactly what might have been expected from the Board of Trade if it once set itself to draft a Bill for the protection of trust funds in the hands of solicitors, that we cannot but admit that the outline which we have described above is at least inherently probable. It seems strange that such a measure should be brought forward at a time when a solicitor is, for the first time on record,

the President of the Board of Trade, but the permanent officials of a Government Department have been known upon previous occasions to have things their own way, in spite of anything that their Parliamentary chief might say or do.

Weekly Notes.

Alterations in the Postal Service. Two alterations in the postal service are announced by the Postmaster-General to commence on October 1st. An additional charge of 3d. will be made on packets over one pound in weight which are conveyed by express messenger throughout the whole journey, save in those cases where a charge is made for the hire of a special conveyance. It is pointed out that the use made of the service for delivery of parcels, especially those of a heavy nature, is so much extending that there is some danger of the speedy delivery of express letters and messages, for which it was primarily intended, being adversely affected, while it is also competing with the Parcel Post service, to the detriment of revenue, in a manner which was never contemplated. Under the revised regulations for the halfpenny post the list of formal, commercial, and other documents admitted will be enlarged so as to include practically all formal partly-printed documents in general use in business, and more liberal rules will be introduced as to the written additions allowed in circulars and other printed documents. This improvement in facilities is likely to be much appreciated by the business section of the public.

The Life of a Bank Note. During the hearing of a case at the Old Street Police Court recently, Mr. Codrington, an inspector of bank-notes at the Bank of England, is reported to have said that the average life of a £5 note was 62 days, a £10 note 58 days, notes from £20 to £100 30 days, £200 to £500 11 days, while a £1,000 note's average life was 55 days. The Bank had in its possession a £5 note that was out for 111 years. Misers and old ladies were fond of hoarding up these notes, but hundreds and thousands never came back at all, and that was all profit to the Bank of England. We are inclined to question the last sentence, for the Bank does not, apparently, know whether a note is coming back or not, and therefore the "profit" is somewhat problematical.

The Rising Rates. Under the auspices of the Association for the Protection of Property Owners in the City, Mr. W. H. Broughton, of the London Municipal Society, made some interesting statements at a public meeting held in the City last week. He complained that in fourteen years the rates had risen from 5s. 2½d. to 7s. 6d. in the pound, while the debt of London had increased in the same period from £30,000,000 to £107,000,000. The Progressives on the County Council and the Borough Councils would say that for this increase the public had the water, tramways, and electric lighting undertakings. Mr. Broughton took each of these in turn, and severely criticised both management and finance. His censure of the Works Committee, the artisans' dwellings, and the Vauxhall Bridge schemes drew significant assents from his audience. Some amusement was added to the proceedings by the efforts of a Camberwell Celt to convert those present to Progressive ideas, evidently against their will.

Assessable Municipal Profits. The report of the Inland Revenue Commissioners, which has just been issued, gives some interesting figures relative to the taxable profits made by local authorities in the year ended April 5th 1905 through their trading undertakings. The profits are, of course, arrived at before allowing for loan service, &c., and include all ventures belonging to municipalities, whether directly conducted or not:—

		1904-5		1903-4	
		No. of Assessments	Gross Amount Taxable	No. of Assessments	Gross Amount Taxable
Gasworks	285 ..	2,667,694	278 ..	2,385,723	
Waterworks	1,112 ..	2,718,176	1,090 ..	2,677,832	
Canals	209 ..	1,859,503	204 ..	1,696,310	
Quarries	187 ..	6,580	176 ..	6,371	
Mines	— ..	—	1 ..	5	
Markets, Tolls, &c. ..	933 ..	605,672	925 ..	588,245	
Fishing and Sporting Rights	78 ..	10,044	85 ..	12,761	
Cemeteries	658 ..	93,437	654 ..	92,312	
Miscellaneous	680 ..	91,996	625 ..	78,514	
Businesses not Detailed	701 ..	2,633,342	711 ..	1,889,383	
Total	4,843	£10,686,444	4,749	£9,477,456	

We do not know whether tramway undertakings are included in "Businesses not detailed," but, if they are, their importance surely merits a separate statement being given. A like remark applies to electricity enterprises.

The Law Society. Next week the thirty-first annual provincial meeting of the Law Society will be held at Manchester, commencing on the 8th inst. with a reception by the Lord Mayor and Lady Mayoress at a conversazione to be held in the Town

Hall at half-past seven. The business of the congress will be started on the following day, when the President, Mr. Henry Attlee, will deliver his inaugural address. Any papers that appear likely to be of general interest to our readers will be produced in these columns in due course, in accordance with our usual custom.

Company Purchasing its own Shares. We were under the impression that the statutory disabilities of a company registered under the Companies Acts to purchase and hold shares in its own undertaking was well understood, but our attention has been drawn to a Balance Sheet issued by a company in the Midlands, in which a number of its own shares appear as one of the assets upon the Balance Sheet. There is no attempt at concealment, and the accounts are audited by two well-known Chartered Accountants. The question put to us by a correspondent, as to how all this comes about, is thus quite natural. The only suggestion that we are in a position to offer is, that possibly this company may be registered under special Act of Parliament, in which event there would not necessarily be anything to prevent its acquiring the power to purchase its own shares; but should the company be registered under the Companies Acts, the transaction is *ultra vires*, and should, we think, have been called attention to by the auditors.

Local Authorities and Defalcations. Commenting upon the regrettable frequency with which employees of local authorities—and, for that matter, treasurers of friendly societies as well—are convicted for misappropriating the moneys they are engaged to collect, our contemporary *The Solicitors' Journal* suggests that the laxity of control which is generally the distinguishing feature of these cases is largely encouraged by the frequency with which the risk of loss through dishonesty has been covered by insurance. For our own part, we have more than once drawn attention to the provisions of Section 55 (1) of the Friendly Societies Act, 1896, which we consider offers a direct encouragement to dishonesty in the case of employees of a friendly society, and, so far as we are aware, it is the exception rather than the rule for these employees to be guaranteed by an insurance company. On the other hand it is, of course, true that the employees of local authorities are almost invariably guaranteed either by a company or by individuals. In the latter event it may well be that the form of bond has been so worded as to leave it open for the authority, by its

neglect of ordinary precautions, to actively encourage irregularities; but among the conditions invariably stipulated for by insurance companies will be found some representation on the part of the assured that the accounts are regularly checked and balanced, and systematic neglect to comply with this condition would undoubtedly invalidate the policy. We doubt very much whether claims are paid as a matter of course, without any inquiry as to whether the conditions have been fulfilled.

Colonial Chartered Accountants. In commenting upon the refusal of the Colonial Office to recommend that the King should grant a Charter to the members of the Accountants' Institutes in Victoria, the Melbourne Chamber of Commerce mentions that Lord Elgin has intimated that in any Act incorporating bodies of accountants the use of the title "Chartered" appears inappropriate, and that any provision which empowers Fellows and Members of such bodies to assume the title and use the initials conferred on Fellows and Associates of the English Institute by Royal Charter, will lead to inconvenience and misunderstanding, both here and in Australia, and would give the members of the English Institute serious ground for complaint. It is gratifying to have this evidence that the Council is fully alive to the interests of its members abroad as well as at home, but it is a little surprising to find that the Colonial Office is prepared to go so far as has been indicated towards protecting the interests of a body which *prima facie* is limited in its operations to England and Wales. There would also appear to have been a distinct change of policy at the Colonial Office since the Institute of Chartered Accountants of Ontario was established. Our own view with regard to the matter is that it would be desirable that throughout His Majesty's dominions the term "Chartered Accountant" should be recognised as being synonymous with "qualified accountant," but that its use should be limited to those who are really qualified to practise accountancy in the particular country where the term is actually used. Thus, while we protest against Scottish Chartered Accountants being allowed to pose as Chartered Accountants in England before they have acquired any knowledge of English business law and practice, we must equally admit the unfairness of allowing English or Scottish Chartered Accountants to go out to (say) Australia or South Africa and there at once pose as being something immeasurably better than the local practitioner, even although their acquaintance with local law and customs may be absolutely nil.

Calculating Discs.

We have received a specimen of Wilson's Calculating Discs, which, we understand, are patented. In principle they are upon the lines of a sliding-rule worked out in circles, and can thus for many purposes be handled much more rapidly than slide-rules. Some 33 of these calculating discs have already been issued for different classes of calculations, and inasmuch as the price is quite trifling they should command a ready sale. To be of any practical value, however, they ought, we think, to be made of some more permanent material than cardboard. Probably celluloid would be found most suitable.

The Audit of Foreign Banking Accounts.

The news which reaches us that a well-known Rotterdam banker has been arrested on a charge of defrauding a local bank to the extent of some £64,000 suggests the desirability for an inquiry as to whether the compulsory audit of these institutions by competent accountants would not be in the public interest. According to the Amsterdam correspondent of the *Daily Mail* it is alleged that these frauds began some twenty years ago with the substitution of fictitious securities for loans, and that the discovery was due to growing carelessness in the steps taken to conceal the fraud, envelopes filled with any sort of papers and endorsed "security" having of late taken the place of the skilfully and elaborately forged documents which were employed in the earlier stages of the fraud. It may be added that the accused, in addition to being the director of the bank concerned, was a well-known notary, and in the latter capacity it is alleged that he applied to the bank for loans on behalf of fictitious clients and applied to his own purposes the moneys as received from the bank in response to these applications. As there is now a regular Institute of Accountants in Holland there would appear to be no practical difficulty in the way of legislation enforcing an efficient audit which might be reasonably relied upon to protect the public against swindles of this description.

Accountancy in the States.

From the preliminary report of the Special Committee of the Board of Directors of the Pennsylvania Railroad Company, issued on the 2nd July last, we gather that that Committee has employed The Audit Company of New York to make an investigation into certain matters connected with the working of the line, and that nearly fifty trained accountants are now at work upon the matter. Accountant corporations are, of course, no new thing in the States; but that they should be employed by a

railway company in connection with an important inquiry is apparently evidence that they are regarded in the States with at least as much favour as firms of qualified professional accountants, and throws an interesting side-light upon the radical difference which must, it seems to us, always obtain between accountancy in the States and in this country. The management of an accountant corporation may, of course, be in the most skilled hands, and the employees may be just as experienced as those employed by any firm run upon old-fashioned lines; but the weak part about the corporation system is that any contracts entered into with it are presumably with the corporation, and not with individuals, and there would appear to be no guarantee provided that these skilled individuals will remain connected with the company to carry out its work. The same objection might, of course, be made against the employment of firms, but, as a matter of practice, firms are not in this country usually employed for specially important work. That is, as a rule, entrusted to individual members of the firm, who are personally responsible to the client for the manner in which the work as a whole is conducted.

Form in Accounts.

The Borough Accountant of Aberystwyth has recently forwarded to us for criticism the Annual Abstract of Accounts of his Corporation for the year ended 31st March last. As Aberystwyth is a comparatively small town these accounts do not raise any questions of importance or of general interest, save one as to the form in which the accounts themselves are issued. The so-called Revenue Accounts have the two sides headed Receipts and Expenditure respectively, and the Borough Accountant informs us that in spite of these headings the accounts are upon revenue lines, and that upon the receipts' side amounts accruing due are included. It is, we think, much to be regretted that so little attention should be devoted to accuracy of form as to allow accounts to be issued so loosely drafted. Either an account is a Revenue Account or it is an account of Receipts and Payments. By no possible combination of circumstances can it be both at the same time, and to give it both headings, as alternative headings, is thus to produce an entirely misleading impression. We observe that the accounts appear to have been passed in this form by the professional auditor, who is a member of the Institute; but, for all that, the heading is wrong, and should be altered. We would rather see the old-fashioned Receipts and Payments Account retained

under its proper name than find the more adequate Revenue (or Income and Expenditure) Account submitted in its stead with a heading so incorrect as to possibly give rise to serious misapprehensions as to the true facts.

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinions expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Check Figure System.

(To the Editor of The Accountant.)

SIR,—I think I am able to shed a ray of light upon this mysterious subject.

Under the system every sum of money is capable of conversion, by an ingenious process of calculation, into what is known as a "check-figure," for example:—

£29 14s. 6d. = (say) check-figure 8.

£19 14s. 6d. = " " 7.

The system requires that all amounts posted must have their "check-figure" entered at the time of posting, both in the Ledger and subsidiary book, in a column at the side of their respective items.

It is an inviolable rule that *the amount, as posted in the Ledger* (correctly or incorrectly), must form the factor for the calculation of the check-figure, and *not* the amount appearing in the subsidiary book.

For example—Assume that Cash Book is being posted and an item of £29 14s. 6d. is posted erroneously into the Ledger as £19 14s. 6d. The check-figure of the latter (say 7) is entered against the Ledger posting, and also alongside the Cash Book item. The result being that the Cash Book item has a *wrong* check-figure against it, but herein lies salvation.

Each page of the Cash Book, when totalled, is also converted, and its "check-figure" placed at the side of the amount. This check-figure should agree with the total of the individual "check-figures" which were entered against each item when posting, but inasmuch as a misposting has occurred and a wrong "check-

figure" entered against one item in Cash Book (*vide par. 5*) the total does *not* agree, thus proving that a mistake in posting has been made at that folio and thereby obviating the necessity of re-checking the whole of the postings.

Such are the main features of the system as explained to me by the representative of the inventor, but in fairness to the system, it must be said that the foregoing is merely an illustration of one of the many labour-saving devices which the inventor claims for his method.

I gave the matter due consideration in regard to its practical application to the books of a big concern, but concluded that the labour involved in the calculation of the "check-figure" and the entering of same in the books (practically a double posting) outweighed any possible saving in re-checking postings at balancing time.

I enclose my card and remain,

Yours faithfully,

26th September 1906.

CLEF.

(To the Editor of The Accountant.)

SIR,—With reference to the method of deriving a check-figure described in my letter to you of the 25th ult., I have since ascertained that if, after dividing the pounds by 13 and converting the remainder to shillings and adding them to the shillings and pence in the amount being dealt with, the shillings in the result are deducted from the pence (instead of the pence from the shillings) adding 13 or 26 to the pence if necessary, a different check-figure is arrived at.

By using the two methods—one for debit entries in the Ledger and the other for credit entries in the Ledger—we shall be able to catch errors in posting to the debit instead of the credit, or *vice versa*.

I am, Sir, yours truly,

GEO. W. MITCHESON, A.C.A.

Manchester, 1st October 1906.

Poor Rate Assessment.

(To the Editor of The Accountant.)

SIR,—In answer to your correspondent "B." in issue of 22nd inst. under this heading, the following is submitted as a way of arriving at the "gross estimated rental" and the "rateable value":—

Representing gross rent by	...	...	G.R.
"	"	estimated rental by	... G.E.R.
"		amount of rates (unknown) by	...
"		rateable value by	... R.V.

the respective figures—in the case given—would be G.E.R. £10, R.V. £8, arrived at as under:—

$$\begin{aligned} \text{G.E.R.} &= \text{G.R.} - x \quad (\text{G.R. being } 52 \times 5/- = £13) \\ &= 13 - x \text{ pounds} \\ x &= \frac{7}{8} \text{ of } \frac{1}{2} \text{ of } (13 - x) \text{ pounds} \quad (\text{Rates } 7/6 \text{ in } £ \\ &\quad \text{and R.V.} = \frac{1}{2} \text{ G.E.R.}) \\ &= \frac{7}{16} \text{ of } (13 - x) \text{ pounds} \\ &= \frac{7}{16} \text{ of } £13 - \frac{7}{16} x \quad (\frac{7}{16} \text{ of } £13 \text{ being } £3 \text{ 18s.}) \\ \text{that is } £3 \text{ 18s.} &= \frac{1}{8} x \\ \text{so that } x &= \frac{3 \text{ 18 } 0 \times 10}{13} = £3, \\ \text{therefore G.E.R.} &= £13 - 3 = £10, \\ \text{and R.V. being } \frac{1}{2} \text{ of G.E.R.} &= \frac{1}{2} \text{ of } £10 = £8. \end{aligned}$$

The following statement shows the different amounts in close connection:—

Gross rent, 52 weeks at 5/-	£13 0 0
Rates at 7/6 in £ on R.V. of £8	3 0 0
Gross estimated rental	10 0 0
Allowance for statutable deductions, 20% of £10	2 0 0
Rateable value	£8 0 0

The water rent (10s. per year) is not taken into account, as it is not a usual tenant's rate, and would not be allowed to be included with the other rates as a deduction from the gross rent to obtain the gross estimated rental.

Yours truly,

25th September 1906.

G. W.

(To the Editor of The Accountant.)

SIR,—In your correspondent "F. S. Eckersley's" letter in your last issue, should not $y = 10s.$ (water rate + $\frac{1}{2}x$) (7s. 6d. in £ on $\frac{1}{2}x$).

Assuming this is so, the gross rental is £9 12s. 3d. and the rateable value £7 13s. 10d., say £7 14s.

Yours faithfully,

October 3rd 1906.

H. B.

(To the Editor of The Accountant.)

SIR,—Your correspondent "B." must have been somewhat astonished at the varying results obtained, which appear in to-day's *Accountant*.

Mr. Bland's calculation is the correct one: the gross estimated rental is £9 12s. 3d. and the rateable value £7 14s. 0d.

I do not quite agree with Mr. Bland, however, that the result can only be obtained by the use of algebra, it may be arrived at by the use of proportion in the following way:—

On a net rental of £100 a year, with an allowance of 20 per cent. for statutable deductions, the rateable value

would be £80. Rates on this amount at 7s. 6d. in the £ would be £30.

The amount of rent, plus rates at 7s. 6d. in the £, in respect of a house, the net rental of which is £100 a year, would therefore be (rent £100, rates £30) £130.

Where the rent plus rates is £13 a year (5s. a week) the gross estimated rental would be £130 : £100 :: £13 : £10 = £10 a year, and the rateable value (£10 - 20 per cent.) £8 a year, that is, if no allowance be made for the 10s. a year water rent, but I think I am right in stating that allowance usually is made. Consequently, if allowance is made in this particular case, we obtain £130 : £100 :: £12½ (12½ × 100 ÷ 130) £9 12s. 3d., as the gross estimated rental, and (£9 12s. 3d. - 20 per cent.) £7 14s. as the rateable value.

This method may possibly be more readily understood than the alternative method of employing algebra.

Yours truly,

F. S. ECKERSLEY.

St. Annes-on-Sea, 29th September 1906.

What is Municipal Capital Expenditure?

(To the Editor of The Accountant.)

SIR,—Referring to your Weekly Note of the 29th ult. on the above subject, permit me to say that your contemporary, *The Electrical Engineer*, is evidently well informed as to what took place at the Bristol inquiry, because the same point was raised at a similar inquiry in Manchester, and the inspector there announced that the Board would not allow the wages of any permanent workmen, or of permanent employees, to be charged against the loan.

The Municipal Journal of the 29th June last, p. 705, deals at length with this new rule of the L.G.B.

Yours truly,

INCORPORATED ACCOUNTANT.

1st October 1906.

[Of course, the practical effect of this new rule is that there is no longer any necessary connection between capital expenditure and expenditure against which loans can be obtained, the authorisation for loans being kept well upon the safe side.—Ed. *Acct.*]

Loan Redemption and the Double-Account System.

(To the Editor of The Accountant.)

SIR,—In a water-supply undertaking the capital is raised by debentures which are taken up by the Government. The statutory Sinking Fund contributions for debenture redemption are, by mutual arrangement

applied year by year in cancellation of a corresponding amount of the debenture issue.

Could you kindly inform me how the following position should be shown in the Capital Account, the accounts being prepared under the Double-Account System:—

Total debenture issue	... ..	£100,000
Amount of debentures redeemed	... ..	20,000
Balance owing on Debenture Account	... ..	80,000
Capital expenditure	... ..	100,000

Yours faithfully,

JOHN BROWN.

[The credit side of the Capital Account should show: Debentures outstanding, £80,000; Debentures Redeemed out of Sinking Fund, £20,000.—*Ed. Acct.*]

Stockbroking in India.

(*To the Editor of The Accountant.*)

SIR,—I hasten to express my regret to Mr. Batliboi, and to the Parsee community.

When I first went to India I was told that the Parsees were sun worshippers, and I have, alas! in spite of various visits, remained ignorant. I also am grieved to have stated that "Jamjeeboy" and "Chuckerbutty," are Parsee names. It is my misfortune, rather than my fault, that I have been under a wrong impression. Now, thanks to Mr. Batliboi, I know better.

GEORGE CECIL.

London, October 1st 1906.

Mr. Gérard van de Linde and the C.A.B.A.

(*To the Editor of The Accountant.*)

SIR,—May I thank you for your kindly sympathetic notice of me (with my portrait) in your last week's issue, and the many of your readers who have been good enough to write me expressing their appreciation of the same.

I would take this opportunity of reminding your numerous readers that my work on "Bookkeeping and other Papers," is still on sale at your office, at that of Mr. Effingham Wilson, as also at the publishers, Messrs. Blades, East & Blades, and that all the profits arising out of its sale go to increase the funds of *The Chartered Accountants' Benevolent Association*.

It may interest the well-wishers of this admirable Association to know that at a recent meeting of the executive I had the pleasure of stating that it was my intention (until further notice to the contrary) to defray the expenses of management, so that the whole of the

money collected go intact to benefit the annuitants and other recipients of this bounty.

I am, Sir, your obedient servant,

GÉRARD VAN DE LINDE.

26th September 1906.

Cumulative Preference Shares.

(*To the Editor of The Accountant.*)

SIR,—Referring to the letter under this heading in the issue of *The Accountant* for September 22nd, signed "Dunelm," I notice, in the 8th edition of Foulks Lynch's "Rights and Duties," the following paragraph:—

Distribution of Surplus Assets.

"If there be a surplus after all creditors have been paid in full, with any interest due, it must be distributed as follows:—

" . . . (4) If there be shares preferential as to dividend, but no dividend has been declared, such shareholders are apparently not entitled to have the arrears of preference dividend made good to them (*Re Crichton Oil Company*, 1902), unless it is so expressly provided by the articles (*The Bridgewater Navigation Company*, 1801)."

This seems to imply that, unless express provision is made to the contrary, preference shares are non-cumulative, thus supporting Mr. Pixley's view.

Yours faithfully,

October 2nd 1906.

W. E. S.

Stock Exchange Reform.

(*To the Editor of The Accountant.*)

SIR,—Allow me to thank you for your leader on "Company Law Reform and Stock Exchange Abuses." I regret that such an important subject has not called forth further discussion.

That official quotations can be obtained by fraud with impunity is a scandal, and makes honest dealing on the Stock Exchange almost impossible.

However, I trust the suggestion that no official quotation be granted to any company without an auditor's certificate certifying that the public unconditionally hold two-thirds of the shares will bear fruit at some time. Such a certificate would not only be a protection to the public against fraud, but would also protect officials who, under pain of dismissal, are made parties to such frauds.

Yours truly,

October 2nd 1906.

Digitized by Google
A. A. McDONALD.

The Trade Union Bill.*(To the Editor of The Accountant.)*

SIR,—It is with regret that I observe comments in your issue of 22nd inst. upon a matter of politics *not* affecting the profession for which you write.

Your strictures upon Mr. Frederic Harrison may be deserved or otherwise—I think the former—but you unhappily go further and fare worse, because you are led to express an opinion upon the subject of Mr. Harrison's excesses.

It is thus only what was to be expected, that a reply should be drawn forth to a statement which so thoroughly exhibits misapprehension of the objects of the Bill in question, and I write to point out in turn that the essence of the Bill is simply to equalise the conditions in struggles between capital and labour. If conflicts between these two forces are—as now admitted—not illegal, then, for the sake of British justice and ordinary fair play, let the fight be carried on at the same level and on the same responsibility in the eyes of the law. There is not a vestige of a creation of privilege, but there is a levelling up of the conditions of suability of the working funds of one party to the plane of the conditions of suability of the working funds of the other. That is the essence of the Bill.

I need not apologise for this counterblast, for, as noted above, it is the inevitable result of your paragraph in your last week's number. My regret is that a journal which has been immaculate in this connection since ever I knew it, should so far fall from its established reputation for impartiality.

Yours truly,

September 24th 1906. CENSORIUM CENSOR.

[We are sorry that our correspondent does not agree with our expression of opinion. If "impartiality" means views coincident with his own, we should doubtless often be "partial."—ED. *Acct.*]

The Central Association of Accountants.*(To the Editor of The Accountant.)*

SIR,—I am directed by the Council of the Central Association of Accountants to request you to correct, by the insertion of this letter, the very damaging statement contained in a leading article in the current issue of your journal (p. 346).

The Council wish it to be distinctly understood that there is no connection between this Association and the one responsible for the circular regarding the Trust Accounts (Audit) Bill, to which you very properly call attention.

I am also requested to point out that the function held at the Royal Botanic Society's Gardens, Regent's Park (as reported fully by you in your issue of the 22nd ult.), was a Conference of the members of *this* Association, and not, as you now suggest, of the Association issuing the circular.

I am, Sir, yours faithfully,

W. GILL HALL.

Secretary

*The Central Association of Accountants, Lim.
London, October 2nd 1906.*

[We regret that, in our last week's article, we attributed the recent Conference at the Botanical Gardens and the circular of which we complained to the same source. At the same time we should like to point out that if this constant multiplication of new societies caused us to make mistakes, *à fortiori* must it prove confusing to the general public.—ED. *Acct.*]

Receiverships.*(To the Editor of The Accountant.)*

SIR,—I observe that, in your issue of the 22nd inst., you did me the honour of reproducing a short article on "Receiverships," which I was invited to contribute to the *Journal of Accountancy*, New York.

Let me, therefore, point out a printer's error in your reproduction of the article, which commits me to the disquieting statement that, when a receiver's security takes the form of the bond of a Guarantee Society, the ordinary rate of premium charged on this side of the Atlantic, in the case of well-known practitioners, is from "8 to 10 per cent. per annum on the amount of the bond." This should be 8s. to 10s. per cent.

I do not know whether the omission of the symbols representing shillings occurred also in the *New York Journal*. If so, the result would be to make it appear, to such of the American accountants as may have had the industry to read the article, that to guarantee the fidelity of a British Chartered Accountant is a risk of extraordinary hazard, demanding a premium some twenty times as large as the ordinary.

As I have been fathered with this unintentional libel on my professional brethren, I am glad to think that it becomes one of the mildest character, if judged by the converse of the rule that the greater the truth the greater the libel.

Yours faithfully,

GEORGE A. TOUCHE.

London, September 28th 1906.

The Institute of Chartered Accountants in England and Wales.

At a meeting of the Council held on Wednesday, the 3rd October 1906, at the Hall of the Institute, Moorgate Place, E.C., there were present:—Mr. W. B. Peat, President, in the chair; Mr. J. B. Ball, Vice-President; Messrs. W. Ashworth, J. H. Blackburn, T. Bowden, E. M. Carter, Ernest Cooper, E. Edmonds, John Gane, A. H. Gibson, T. Gregory, J. E. Halliday, B. W. Hardcastle, I. S. Harwood-Banner, M.P., D. Hill, W. C. Jackson, C. Fitch Kemp, H. Woodburn Kirby, G. Walter Knox, A. O. Miles, F. W. Pixley, W. Plender, F. J. Saffery, T. G. Shuttleworth, G. Sneath, J. M. Wade, E. Waterhouse, F. Whinney, and F. J. Young.

The President presented the prize won at the Intermediate Examination, the certificates of merit awarded at the Final Examination, and the certificate accompanying the Robert Fletcher Prize to the following gentlemen, who were able to attend the meeting of the Council, and congratulated them on their successes:—

Intermediate Examination Prize.

Mr. M. L. T. Hare, M.A.

Robert Fletcher Prize Certificate.

Mr. B. H. Brigham.

Final Examination—Certificates of Merit.

Mr. R. T. Millward, 3rd (bracketed).

„ H. L. Shoveller, 5th.

„ H. R. Horsley, B.A., 8th.

The Secretary reported the death of Mr. Adam Murray, F.C.A., Manchester, a member of the Council, and it was resolved that a letter of condolence be sent to Mrs. Murray.

The resignation of Mr. C. H. Wade, F.C.A., Manchester, of his membership of the Council was accepted with regret.

The Examination Committee reported that they had appointed the following gentlemen to be examiners at the Intermediate and Final Examinations to be held in November next:—

Intermediate Examination, November 1906.

Bookkeeping, Partnership: Mr. W. Plender.

„ Executorship: Mr. T. G. Shuttleworth.

Auditing: Mr. H. Woodburn Kirby.

Rights and Duties of Liquidators, &c.: Mr. F. J. Saffery.

Final Examination, November 1906.

Bookkeeping, Partnership: Mr. J. Gane.

„ Executorship: Mr. T. G. Shuttleworth.

Auditing: Mr. F. W. Pixley.

Rights and Duties of Liquidators, &c.: Mr. D. Hill.

An invitation from the Northern Institute of Chartered Accountants that an Autumnal Meeting should be held at Newcastle-upon-Tyne in 1907 was accepted with thanks.

The Secretary reported:—

(1) The appointment of Mr. F. W. Pixley as Chairman of the Library and Publication Committee.

(2) Death of Mr. A. Goodman, F.C.A., Taunton.

„ „ „ T. Hadfield, F.C.A., Sheffield.

„ „ „ John Smith, F.C.A., London.

„ „ „ J. H. Richardson, A.C.A., Derby.

The resignations of:—

Mr. D. D. Robertson, F.C.A., London,

„ J. Holt, A.C.A., Manchester,

were accepted.

Recent Additions to the Library.

Purchased.

A Lawyer's Manual of Bookkeeping. By H. Hughes-Onslow. London: 1906.

Terminal Cost Accounts. By A. G. Nisbet. London: 1906.

L'art de bien tenir les livres de comptes. Par Samuel Ricard. Folio. Paris: 1724.

How to become a Qualified Accountant. By R. A. Witty. London: 1906.

The Law of Corporate Executors and Trustees. By E. King Allen. London: 1906.

Index of Cases Judicially Noticed, 1865-1904. By A. M. Kant. London: 1905.

Company Law Amendment Committee: Report and Appendix. London: 1906.

Joint Stock Companies Return for 1905.

Companies Winding-up, Report for 1905.

Table A (revised 1906), with Notes by D. G. Hemmant. London: 1906.

Parliamentary Debates, vols. 7-11 of 1906.

New English Dictionary on Historical Principles. By J. A. H. Murray. N-Niche (part of vol. 6), 1906.

Palmer's Index to *The Times*, April-June, 1906.

Presented by Messrs. Stevens & Haynes (the publishers).

Principles of Commercial Law. By J. Hurst and Lord Robert Cecil. Second Edition. London: 1906.

Presented by the Council.

Catalogue of the Library of the Institute of Accountants and Actuaries in Glasgow, 1906.

Presented by H. Woodburn Kirby, F.C.A.

Report of the Royal Commission on War Stores in South Africa, with Appendices. London: 1906.

Presented by the Authors.

Parliamentary Companies. By F. N. Keen, A.C.A. London: [1906].

Analysis of Accounts of London Joint Stock and Private Banks, August 1906. By W. H. Birks.

Presented by Jas. Urquhart.

The Argument *a priori* for the Being and Attributes of the Lord God. By W. H. Gillespie. Sixth Edition. Edinburgh: 1906.

Presented by the City Treasurers.

City of Liverpool Abstract of Accounts, 1905.

City of Manchester Abstract of Accounts, 1905-6.

City of Newcastle-upon-Tyne Abstract of Accounts, 1905-6.

Presented by the Borough Treasurers.

County Borough of Blackpool Abstract of Accounts, 1905-6.

County Borough of Southampton Abstract of Accounts, 1905-6.

County Borough of Rotherham Abstract of Accounts, 1905-6.

County Borough of Barrow-in-Furness Abstract of Accounts, 1905-6.

County Borough of Bolton Abstract of Accounts, 1905-6.

County Borough of West Ham Abstract of Accounts, 1905-6.

Borough of Macclesfield Abstract of Accounts, 1905-6.

Borough of Eastbourne Abstract of Accounts, 1905-6.

Presented by the Borough Accountants.

Borough of Aberystwyth Abstract of Accounts, 1905-6.

Borough of Ipswich Abstract of Accounts, 1905-6.

Metropolitan Borough of Hampstead Abstract of Accounts, 1905-6.

County Borough of Bury Abstract of Accounts, 1905-6.

Presented by the Auditor (Fred Scott, F.C.A.).

County Borough of Stockport Abstract of Accounts, 1905-6.

Presented by the City Chamberlain.

Accounts of the Chamberlain of the City of London, 1905.

Reviews.

The Handy Book on the Law and Practice of Joint Stock Companies.

By ANTONY PULBROOK.

London, 1906: Effingham Wilson, Threadneedle Street.
Fourth Edition. Price 4s. net.

Within a quite reasonable space, and in a very convenient form, this handbook deals with all the principal points arising in connection with company practice from registration to liquidation. While by no means sufficiently exhaustive to serve as a useful book of reference to liquidators, it may well be regarded as the *vade mecum* of the company secretary, while shareholders will also

derive some instruction from the concluding chapter, if not from the earlier portions.

Vocations for our Sons.

By J. W. HICKS, F.R.A.S.

London, 1906: T. Fisher Unwin, 1 Adelphi Terrace, W.C.
Price 2s. 6d. net.

This interesting volume is divided into two sections. The first contains short particulars of the modes of entry and of the prospects of some thirty-eight trades and professions, starting from "accountancy" and going through the alphabet. So far as we can judge, the information is reliable, and sufficient for preliminary purposes; that is to say, those in search of an answer to the question "What to do with our boys?" may by means of this handbook readily eliminate a number of occupations as either impossible or hopeless, and thus centre their attention and their inquiries upon those which are more probable. The second section of the book deals with Civil Service and Municipal Employment; while by way of a preface there is a short but interesting chapter on "Commercial Education," by Professor W. J. Ashley, M.A., Dean of the Faculty of Commerce of the University of Birmingham.

The London University Code, 1907.

The Annual Calendar for 1906-7, issued by the London University Correspondence College, contains the regulations for the examinations to be held during the current session, and much interesting information in connection therewith. Those of our readers who are interested in the discussion that has recently appeared in these columns as to the relative value of the B.Com. and B.Sc. degrees will find full information with regard to the last-named in this volume, as well as a variety of other interesting matter.

Personal.

MESSRS. ROOSE, MAHON & HOWORTH, Chartered Accountants, of 26 North John Street, Liverpool, announce that they have taken into partnership Mr. FRANK SKAIFE HOWORTH, A.C.A., and Mr. HERBERT GEORGE MAHON, A.C.A., both of whom served their articles with them. The style of the firm will be the same as heretofore.

MESSRS. SAMUEL HALL & SON, of Bentinck Buildings, Wheeler Gate, Nottingham, announce that they have taken into partnership Mr. FRANK H. BLORE, A.C.A., who for the past seven years has been with Messrs. DERBYSHIRE BROTHERS, Nottingham. In future the business will be conducted from the above address under the style of HALL & BLORE.

Manchester Chartered Accountants Students' Society.

Constituted 12th December 1882.

Affiliated to the Working Union of Students' Societies.

Syllabus—Session 1906-7.

President: Mr. Frank Halsall, A.C.A.

Hon. Secretary: Mr. J. W. Womersley, A.C.A., 77 King Street.

1906.

Oct. 1.—Social Evening.

Nov. 5.—President's Address.

„ 19.—Mock Creditors' Meeting.

Dec. 3.—Lecture: "The Criticism of Accounts." Mr. W. R. Hamilton, F.C.A., of Nottingham.
(This meeting is a joint meeting of the Manchester Society of Chartered Accountants and the Students' Society.)

1907.

Feb. 4.—Lecture: "Cost Accounts for Small Manufacturers." Mr. M. Webster-Jenkinson, A.C.A., of Sheffield.

„ 18.—Lecture: "The Duties of an Arbitrator." Mr. Gordon Hewart, M.A., Barrister-at-Law.

Mar. 4.—Informal Discussion. Short Papers. Mr. J. A. Porter and Mr. H. J. Lunt.

May 13.—Annual Meeting.

Lectures and Debates.

The meetings of the Society are held on Monday evenings. A discussion will take place at the end of each lecture, in which members are particularly requested to join.

Lectures and Classes.

A syllabus of the Educational Scheme of Classes and Lectures covering a complete course of study for both examinations has been circulated among the members.

The dates of the various courses are as follows:—

Held at the Library.

Bookkeeping and Accounts—Lecturer: Mr. F. Dowler, A.C.A.

Mondays: September 24th; October 8th, 15th, 22nd, 29th; November 12th 1906.

Partnership and Executorship Accounts—Lecturer: Mr. H. J. Lunt, A.C.A.

Mondays: February 11th, 25th; March 11th, 25th; April 8th, 22nd, 29th 1907.

The above are intended for candidates for the Intermediate Examination of the Institute.

Examination Preparation Class—Lecturer: Mr. H. S. Ferguson, A.C.A.

Thursdays, September 20th; October 4th and 18th; November 1st.

A class will also be held in the spring, the dates of which will be March 21st, April 4th, April 18th, May 2nd.

All the above classes are free.

At the University.

Accounting—Lecturer: Mr. R. N. Carter, F.C.A.

Three courses of lectures as follows:—

(1) First course on Fridays at 6.30, in the Michaelmas and Lent terms. Fee, 12s. 6d

A complete explanation of the theory and practice of double-entry bookkeeping up to and including the preparation of simple Balance Sheets and Profit and Loss Accounts.

First lecture, October 5th.

(2) Second (or Intermediate) course on Fridays, at 7.30, in the Lent term. Fee, 6s. 3d.

Commencing with the Trial Balance, this course will comprise fuller explanation of technical accounting.

First lecture, January 11th.

(3) Third course on Fridays, at 7.30, in the Michaelmas term. Fee, 6s. 3d.

Advanced accounting, including a full consideration of accounts for income-tax returns and appeals, &c.

First lecture, October 5th.

Candidates taking accounting for the B.Com. will be required to attend Course 2.

Commercial Law—Lecturer: Professor Seaton. Wednesdays 6.30 to 7.30.

The lectures will continue throughout the University session, and will include the following subjects, viz.:—

Principal and Agent.

Partnership.

Formation and Winding-up of Companies.

Companies as Going Concerns.

Bonds, Mercantile Securities, and Guarantees.

First lecture, October 3rd. Fee, £1 11s. 6d.

N.B.—A full course of lectures on Commercial Law extends over two University sessions. Candidates for the degree of B.Com. are required to attend a full course of lectures on the subject. During the session 1907-8 Professor Seaton proposes to lecture on Carriage by Land and Sea, Insurance, Sale of Goods, Negotiable Instruments, Bills of Exchange, Cheques and Promissory Notes, and Bankruptcy.

Fee for the complete course extending over two sessions, £2 12s. 6d.

Members of the Society intending to take the accounting courses may register at the Library, 60 Spring Gardens, on the payment of the above-named fees.

Society's Transactions, &c.

The transactions of the Society are published monthly, through the medium of *The Accountants' Journal*, which contains also reports of lectures delivered to other Student Societies. A copy of the *Journal* is forwarded, free of charge, to each member of the Society, about the middle of each month.

Library.

The Library is open daily (at 60 Spring Gardens), from 10 to 1 and 2 to 5. Saturdays, 10 to 1.

The Robert Fletcher Prize.

The Robert Fletcher Prize will be offered for competition by the Institute at the forthcoming Intermediate Examination to be held in November 1906.

Essay Competition, 1906-7.

The Committee of the Working Union of Chartered Accountant Students' Societies offers a first prize of five guineas, a second prize of two guineas, and a third prize of one guinea for the three best essays on "The uses and limitations of the Card, Loose-leaf Ledgers and Slip Systems in relation to matters of Account."

Rules.

- (1) Essays must be written on one side of the paper only.
- (2) The name of the writer must not appear on his essay, but a *nom de plume* must be used. The essay must be addressed to Mr. G. H. Redfern (Hon. Secretary of the Working Union), 10 Long Lane, Aldersgate Street, London, E.C., and must be accompanied by a sealed envelope marked on the outside with the following:—
(a) Essay Competition, (b) the writer's *nom de plume*, and (c) the name of the Society to which he belongs. This envelope must contain (a) the writer's name and address, (b) the name of the Society to which he belongs, and (c) a declaration signed by him that he is not over 27 years of age, and has received no assistance from anyone in preparation of the matter of the essay. The envelopes of the successful essayists will alone be opened, the others will be destroyed.

(3) Essays must be sent in on or before March 31st 1907, and must not contain more than 7,000 words, either typed or written, on foolscap paper. Forms may accompany the essay and will not be included in calculating the number of words, but such forms must contain only headings and illustrative entries, no notes, explanations, or qualifications of examples or headings being allowed. The paper containing the forms must also be foolscap size.

(4) The essays submitted for competition will become the property of the Joint Committee of the Working Union, and will in no case be returned.

(5) In the event of there being less than five essays submitted the Committee reserves the right to withhold all or any of the prizes.

(6) The prizes will be awarded only in the event of the arbitrator reporting that the essays received are of sufficient merit to deserve prizes.

(7) The competition is open to all members of the Societies belonging to the Working Union except (a) those who passed their Final Institute Examination before July 1903, or who are over 27 years of age, (b) non-articled clerks over 27 years of age, (c) members of the Joint Committee of the Working Union.

(8) In the event of prizes being awarded, the successful essayists may be invited to read their essays before the Societies to which they belong.

PRIZE FUND.

Prizes are offered for successes at the Institute and other Examinations as follows:—

Institute Examinations.

Final Examination:	£	s.	d.
Any member obtaining 1st Prize	5	0	0
" " " and "	3	3	0
" " " a certificate of merit	1	1	0
" " " 1st certificate after prizeman, or 1st certificate where no prizeman	2	2	0

Intermediate Examination:

Any member placed 1st in order of merit of all the candidates	2	2	0
And if a prizeman £1 is. od. extra.			
Any member placed 2nd in order of merit of all the candidates	1	1	0
Any member placed 3rd in order of merit of all the candidates	0	10	6

Commercial Law Examinations at the University.

To members who take the first place in the first class in each course.

Prize	10s.	6d.
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President's Prizes.

The President has kindly offered prizes in connection with the examination in "Bookkeeping and Accounts" and "The Adjustment of Partnership and Executorship Accounts." The conditions will appear on the syllabuses of the several courses.

Examination Preparation Class.

Two short courses of four lectures each will be delivered during the session by Mr. H. S. Ferguson, A.C.A., at the Chartered Accountants' Hall, 60 Spring Gardens, on the following examination subjects:—

- (1) Auditing.
- (2) The Duties of Trustees in Bankruptcy, Liquidators, and Receivers.

For the convenience of candidates for both the

November and May Examinations, the following dates have been arranged:—

Autumn 1906—September 20th, October 4th and 18th, and November 1st.

Spring 1907—March 21st, April 4th and 18th, and May 2nd, commencing at 6 o'clock p.m.

The above lectures are free to members of the Society.

Huckland Accountant Students' Society.

The Audit of a Joint Stock Company's Accounts.

By ALEX. GRIERSON, A.C.A.

A paper read before members of the Society on April 12th 1905.

Gentlemen, I was very pleased to comply with the request of a member of your Committee to deliver a lecture to you this evening on the subject of "The Audit of a Joint Stock Company's Accounts."

Owing to the great and ever increasing number of joint-stock companies, in which the auditor is one of the most necessary officials, this class of audit is becoming a most important branch of our business; and I agree with Mr. Pixley in regarding auditing as the mainstay of our professional work. The importance to members of our Student Societies of a thorough knowledge of the principles on which a complete audit must be founded can hardly be overrated.

There is no doubt that bookkeeping is the basis of an auditor's work, and a thorough acquaintance with its general principles and developments is essential to success and personal confidence; while the want of such an acquaintance is sure to cause muddling in the course of an audit, while often a waste of time on trivial matters and a failure to discover errors in principle, or even devices for irregularities and fraud in the accounts. Therefore the first qualification of an auditor must be thoroughness in the principle and practice of bookkeeping.

In the case of a private partnership the auditor's duties are too often defined and limited by his client, and the necessity for audit is frequently not recognised until a remedy is required for laxity in oversight, instead of being regarded as a preventive of irregularities; but in the case of public companies his duties are laid down by Act of Parliament. The auditor must then make himself acquainted with the duties and powers contained in the clauses and regulations of the particular Act.

Some Acts, such as for Railway and Canal, Gas and Water, Insurance and other companies, provide special forms of accounts, and the books must be framed as to work up to them.

The Companies Act of 1903 provides a form of statement of liabilities and assets in the Schedule in Table A, but the adoption of Table A is optional, and companies of any importance usually provide articles of their own; the division of heads, as suggested in the form, is, however, often adopted.

The scope of an audit depends upon whether it is the first audit of a company's books; to-night, for the sake of completeness, let us consider it to be the first audit.

A diversity of opinion exists as to whether the checking of the statistical books is part of the auditor's duty, or a special duty for which a special fee should be paid. In practice, it is often neglected. I am of opinion, however, that his duties include the examination of the statistical books. The safest plan is for the auditor to see what duties are imposed upon him by the articles of association of the company, and not to take his instructions from the directors only.

It is to be hoped that some day the law will provide that the books of every joint-stock company shall be opened by a fully qualified public accountant, and an auditor on his appointment should stipulate that this has been done. The appointment of auditor is sometimes made by the articles of association; if it is not, he should receive an official notice from the secretary of his appointment by the directors.

Before commencing his work the auditor should require from the secretary the following:—

- (1) A list of all the books of the company, including the statistical books.
- (2) A copy of the registered articles of association, with any contract for the issue of shares for any other consideration than cash.
- (3) A list of members, with the share register folios, the number of shares held by each, and the calls in arrear (if any).
- (4) A Trial Balance showing the arithmetical correctness of the books.
- (5) A copy of the Balance Sheet and Profit and Loss Account, dated and signed by an authorised person.
- (6) All contracts, deeds, leases, and other documents and securities of the company, including the prospectus, Applications, and Application and Allotment Book.

Having obtained these particulars, the auditor should see that the company has been duly registered, which he will ascertain by the Registrar's certificate.

He should then carefully read the memorandum and articles of association; note the capital and borrowing powers of the company; all contracts specified, and any other matters worthy of remark, and compare them with the books and actual documents.

He should carefully peruse the Minute Book, beginning

with the meeting at which the first allotment of shares was made, or any purchase agreement adopted by the directors. A perusal of the Minute Book affords the auditor a lot of valuable information and many useful hints on particular transactions, without which he would be at a considerable disadvantage in performing his duties. Having made his notes he should refer to the financial and statistical books, and ascertain whether the resolutions passed by the directors or shareholders have been duly carried out.

Any purchase agreement adopted by the directors should be carefully examined, and the issue of paid-up shares, or cash payments, checked with the contract.

The Share Capital Account will require careful attention. On issuing the prospectus it is usual to state the deposits on applications for shares are payable at the company's bankers. The applications, which should be filed in order of date received, should be checked with the Allotment Book, which should be compared with the Minute Book. When no allotment is made, the deposits are of course returned. The Allotment Book must be checked with the Register of Shareholders, and as the share certificates are issued they should be exchanged for the allotment notices. The bank or cash will be debited with all amounts received on Capital Account, and the various Application, Allotment, and Call Accounts will be credited with the same. Through the Journal the latter accounts will be debited and Share Capital Account credited with the amounts when authorised by the Board Minute Book.

In addition the individual shareholders will be credited with all amounts paid by them, and the aggregate of their payments should agree with the total of the Share Capital Account after making allowance for payments in arrear.

The auditor should note whether interest has been charged on arrears of calls where chargeable. This interest would be carried direct to the credit of Interest Account.

The issue of certificates should be checked with the Share Register and with the Share Certificate Book counterfoils.

The Register of Transfers will require examination. The auditor should see that all transfers are duly stamped and executed, and that the old scrip is attached and defaced.

If any loans on mortgage have been obtained by the company the auditor must see that a proper Register of Mortgages has been kept, recording the particulars required by the Act, and that interest up to the date of closing the books has been charged against revenue.

Debentures issued and interest accrued due thereon must be dealt with in the same manner.

After a careful inspection all securities should be initialised by the auditor, if found in order, and handed back to the secretary of the company.

We are now ready to deal with the financial books of the business.

A further difference of opinion exists as to where an auditor's work begins. It has been stated that it should commence with the Order Book, that the execution of each order, and that the proper charging and calculation of each item of sale and of each item of purchase should be checked. This is not an auditor's work unless he be specially instructed and paid to do it. It is the work of the office staff, and the manager should see that it is a part of the daily routine.

Think of the folly of not checking the prices and extensions of invoices in and out. But in many cases I know it is omitted, and then it becomes the duty of the auditor to point it out and recommend attention to it.

Some say an auditor's work begins rightly with the postings to the Ledgers. Theoretically all the postings to the Ledgers should be checked; if the number of entries be so great as to render the work impracticable, then the sales should be checked in another manner. I am in favour of all purchases and payments for the same being thoroughly checked, and the careful examination of purchase invoices as to whether they are on printed forms made out to the company, &c.

The object of an audit is to see what the accounts placed before the auditor say, and then consider if they tell the whole truth.

To see what the accounts say necessitates a great amount of detail work, part of which is very laborious and irksome to the auditor, but at the same time very important, such as additions of Pay Sheets, Cash Books, Journals, and Ledger Accounts, and the checking of postings of Journals and Cash Books.

Still, in order to detect errors or fraud, such work is most important and must be done.

As, strictly speaking, every single transaction of the period under review should be checked, an experienced auditor satisfies himself that practically he does examine every transaction. I wish to try and show you how such a thorough examination can be made.

The list of books used in the business will include:—

- (1) Invoice Book or Purchase Day Book,
- (2) Sales Day Book,
- (3) Cash Book,
- (4) Bill Book,
- (5) Journal,
- (6) Ledger,

and other subsidiary books. I shall confine my attention principally to these six books.

We should first examine them to ascertain their character and method of entry, and how they work into each other to make the necessary records of transactions; having grasped this we shall find that almost all the transactions pass through the first-named books into the Ledger. If we

are satisfied that every entry in these five books is correct and has been correctly posted to the Ledger we are in a position to make a report. How are we then to satisfy ourselves on this point?

First let us take the Purchase Day Book. It is necessary to inquire who has authority to make purchases; whether the invoices are certified by managers of departments as to receipt of goods and prices; who passes the accounts for payment, and who pays the accounts. It is easily seen that many opportunities for fraud occur in connection with purchases made unless precautions are taken; where no supervision has existed payments have been made for goods never received, and goods received have been paid for twice over, once to the cashier or other official who has forged a signature.

It is improper in a large establishment for the same official to have the power both of authorising payments and making payments. It is true that in some private firms a partner has the power, when less can be said against it, but an auditor should point out the necessary precautions, and in the case of a limited company it would be his duty to insist upon the precautions being taken. Unless the invoices are certified by the managers of departments, what guarantee is there that the goods have been received into stock?

To be satisfied that the entries in the Purchase Book are duly authorised the entries must be compared with the invoices. To do this might involve enormous labour, and so it might be obviated in this way. The official who sanctioned the payments would doubtless satisfy himself that the invoices were certified, and would keep a record of the amounts he certified for payment; a comparison then of the totals of the Purchase Book and the accounts passed for payment would be a check on their correctness. The analysed totals of the Purchase Book posted direct into the proper accounts in the Ledger should then be checked.

Taking now the Sales Day Book. What authority do we require here? If the business deals in goods of one kind, such as cotton or iron, and the quantities sold should correspond with the quantities purchased and received, after taking into account the stocks on hand, we have not much difficulty in satisfying ourselves how the whole of the goods are disposed of; but in a large general business, such as a store of any kind, or a retail establishment, such a check cannot be obtained without too much detail.

In such businesses, however, money should not be paid to the person selling until note of goods sold has been initialled by the supervisor or cash clerk.

The total of the sales notes should then agree with the cash received. It is in cash sales that thefts more readily occur when the checks are not perfect. In credit sales all entries in the Day Book must be authorised by the Order Book entries and a copy of the invoice taken in the press copy book.

By this method some of the entries in the Day Book should be tested here and there with the Order Book and press copy book, so as to satisfy the auditor generally of their correctness. The total additions and postings of the Day Book into the proper Ledger Accounts should then be checked.

Let us now deal with the Cash Book.

The auditor should see that it is closed off in ink. All the additions should also be inked in before the auditor touches them, and this rule should be strictly enforced with regard to all the books to be audited.

I have known a cashier to hand over his Cash Book closed in pencil, and when the auditor has returned the book after the audit the cashier has altered the figures to cover certain discrepancies of his own. The examination of the vouchers should first be proceeded with, and they should be arranged beforehand in order of the dates of the Cash Book and numbered consecutively. I want to impress upon you the importance of examining the vouchers thoroughly. The amount, signature, date, and stamp should be looked at, but more than this should be done; the general contents should be noted to see that the amount has been charged to the proper account, especially whether to a Capital or Revenue Account.

Serious errors happen from a wrong allocation of payments to Capital Account, and though the examination may be routine work it is very important. Also the value of a voucher for use in a Court of law should be seen to.

There should be a voucher for every payment, and every entry of payment should be checked with the Bank Pass Book. Indeed the whole Bank Pass Book should be checked with the items in the Cash Book; it is not sufficient that the balance agrees with that of the Cash Book, even if certified by the bank on the date of closing the accounts.

In spite of the apparent correspondence of these balances, fraud has been possible in this way. Say a sum of £20 is received in payment of a debt, then debited in the Cash Book and posted to the credit of the debtor's account in the Ledger; it is then credited to Cash and debited to Bank, but never actually paid into the bank. An entry is now made in the Ledger debiting some expense account and the Bank Account is credited: the balance of the Bank Account will now agree with the Bank Pass Book balance. But if all the entries in the Bank Pass Book are checked with the Bank Account this will be discovered and the fraud detected.

The debit side of the Cash Book consists chiefly of the debts paid by customers, and these receipts should be compared with counterfoil receipt books where practicable, in order to ascertain that all cash received has been accounted for. Other receipts, such as loans on mortgage of properties, should be verified by the correspondence relating to them, especially letters accompanying the

amounts received. After checking the additions and examining the balance of cash in hand our audit of the Cash Book is now completed.

The Bill Book will now require our attention.

The passing of bills through the Cash Book when they are drawn should be emphatically condemned. At maturity, or when discounted, they must be passed through the Cash Book if columns are used for a Ledger Bank Account; but when a bill receivable or payable is drawn or accepted the entries should be made in the Bill Book only and posted therefrom to the Ledger Accounts. Should the first-named method be in use every entry in the Cash Book must be carefully compared with the Bill Book entries, and also with the Bank Pass Book when they are paid in for account or collection.

Entries have been so worked at the close of a period as to deceive in regard to the actual balance of bills in hand.

The auditor should observe whether the bills are being met regularly, for where there are constant renewals suspicions will be caused as to the value of the debts represented by them, and in the preparation of a Balance Sheet he would be influenced by the result of such observation.

All accommodation bills should be separately classed as loans.

I have now dealt with the four principal books in which entries are made for the first time. Each kind of business requires certain additional subsidiary books, such as Returns and Allowances Books in and out, Commission and Travelling Expenses Books, &c. The bulk of the transactions, however, appear in the four books named, and I have suggested methods by which the laborious work of checking each item may be avoided. Of course, if the instructions are for an exhaustive audit it would be necessary to check every item.

I will briefly allude to the Journal.

In importing and exporting, shipping and shipowning, businesses it is a most important and essential book, but in the accounts of trading concerns it is chiefly used for capital, opening, closing, and casual entries, and transfers from one Ledger Account to another. It also shortens postings in businesses having many departments. I believe, however, in posting totals direct from the primary books to the Nominal Ledger Accounts where possible, especially in manufacturing and trading businesses where the transactions are generally of one kind. All entries should be checked by original documents where possible, and all postings from the Journal to the Ledger Accounts.

We must pass now to a consideration of the Ledger.

If previous audits have been done by another person it would be necessary first of all to satisfy oneself that the starting balances of the accounts at the beginning of the period to be audited agreed with the amounts in the Balance Sheet made out for that date.

That having been done and the Ledger additions having been checked, we proceed to check the Trial Balance, Profit and Loss Account, and Balance Sheet, which ought to have been prepared by the bookkeeper. When this is finished we may be said to have completed the detail work of the audit. The Profit and Loss Account and the Balance Sheet give the result of the business according to the books and show what the accounts say.

We will now proceed to consider if the accounts, as they have been made up by the bookkeeper, tell the whole truth.

In this part of the work questions of principle come in and have to be carefully considered; particularly so if the accounts be those of a limited liability company. The memorandum and articles of association usually lay down certain lines for the conduct of the business, and it is the duty of an auditor to point out where such lines have been deviated from or where directors have exceeded their powers. Then there are the ever present questions, Which is capital? and Which is revenue?

Let us imagine the Profit and Loss Account and Balance Sheet of a large commercial business having a house in London and one in Auckland.

The gross Revenue or Trading Account should only contain such earnings and expenditure as are really applicable to the trade for the period under review, and the balance thereof should be carried to the net Revenue or Profit and Loss Account, where any items not properly chargeable against trading may be included.

The Revenue Account must include all earnings and expenses for the period under review, not simply those actually received or paid, but also those that have accrued. This distinguishes a Revenue Account from a statement of mere receipts and payments.

We will now consider the separate items of this account.

On the credit side is brought down the gross profit for the year. This is arrived at by adding to the total sales the stock in hand at the close and deducting therefrom the stock in hand at the commencement of the period, plus the total purchases. In a manufacturing business the workmen's wages should also be deducted.

We have satisfied ourselves as to some of these figures by our previous examination of the Purchases and Sales Day Books and Return Books, and we should be careful to note that they did not include any items of machinery or plant, but only goods for re-sale. With regard to stock on hand at the closing time, how far is the auditor bound to check the statement of stock? Generally he will have to accept as correct the quantities stated therein. He should inspect the Stock Book where one is kept, but in most cases he will have to be satisfied with a certificate of the manager and the signatures of the heads of departments

and the initials of the clerks who have made the extensions.

In addition it is an auditor's duty to take an intelligent survey of the whole statement by comparing it with the previous one and examining the prices with recent invoices of purchases. Cost prices should be taken subject to special depreciation for fall in prices, &c. The stock being often a main item on the credit side should be very carefully dealt with, as it directly affects profits. The next item will be profits made by the branch office. The branch office accounts are usually vouched by an auditor on the spot.

Then will come profits not derived from the trading of the concern.

On the debit side of the Profit and Loss Account all the items should be vouched. Most of these vouchers will have been seen when examining the Cash Book, but that is not enough. The separation of capital and revenue payments must now be carefully considered, for it is evident the more you put to capital the less will be charged to revenue expenditure and the greater to balance of profit for the period. I, therefore, insist upon checking the postings of every capital item into the Ledger. I always check the postings to every nominal account also, if possible, but if a revenue item be posted to a wrong account no great harm will be done, but if Capital Account be unfairly charged too much profit may be paid away as dividend to shareholders, against which error the auditor should carefully guard.

Some dispute may arise as to what is capital expenditure, but usually cost of material, labour, and management in the erection of buildings, machinery, and plant may be fairly considered as capital outlay, unless such outlay is for renewals only. Extensions of works are capital, but renewals and repairs are revenue charges. Should very extensive repairs take place in one year, thus saving further repairs for some years to come, it is within the discretion of the auditor to apportion the amount over several years. It is always safe, however, to wipe out such repairs as soon as possible.

Let us rapidly touch on the usual items of expenditure.

Wages.—This is often a considerable item. The manager of each department should certify as to the work done by his employees, and should state if the work done is for capital or revenue purposes. The Pay Sheet extensions and additions should be checked by one clerk and the wages should be paid by another.

The Wage List should be examined by the manager to see that no names and amounts have been wrongly included, and he should be present occasionally at the actual paying of wages; pay clerks have been known to insert names and draw the money themselves. The auditor

should check some of the additions himself during the period.

Salaries.—This account can be examined more closely, because the separate and total salaries are fixed amounts. The recipients should sign in an indexed Salaries Pay Book, which is a good form of voucher.

Travelling Expenses.—These should be vouched by the travellers signing in the indexed Pay Book.

Discounts and Interests.—This is an account of amounts allowed to customers and received from creditors. Much of this account is unvouched, and can only be checked in a general way by examining the usual rates of discount allowed. Discount on bills discounted will be vouched by the banker's statements and Pass Book, and discounts received from creditors will be shown on their receipts. Provision should also be made for estimated discounts on open accounts—

Rent, Rates, Taxes, and Insurance.

Commissions.

Trade Expenses.

Office Expenses.—These accounts will be vouched by the usual receipts for payments referred to when dealing with the Cash Book.

Repairs to Buildings, Machinery, and Plant.—It is to the interest of the company that these properties are maintained in a thorough state of efficiency. Indeed some auditors do not object to this account being overcharged for the benefit of Capital Outlay Accounts, as they call it "erring on the right side," but this is misleading as to the cost of producing goods, which may cause loss of business, and care should be taken to charge this account with the proper items only.

Bad Debts.—The individual accounts of debtors should be carefully examined with some responsible officer, and so much written off as is irrecoverable; a provision should also be made for doubtful debts by means of a Reserve Account. Bills receivable current should be dealt with likewise.

Depreciation.—Some difficulty often arises in dealing with this account. It is a correct principle that all property, whether fixed or not, when employed in trade should be considered to deteriorate with use. But how to assess the rate of the deterioration is the trouble. Buildings will not depreciate so rapidly as machinery. The life of a building may be fifty years, while that of a machine may be only a few years. I always advocate the keeping of separate accounts for land, buildings, machinery, fixed plant and loose tools, as different rates of depreciation apply to each of them.

These rates will be arrived at by the experience of the auditor, influenced by the circumstances of each case. Sometimes the heavy charges for renewals and repairs

during a period have been made an excuse for no depreciation being charged, but I hold that a sum should be charged against each year's profits in respect to depreciation. In cases of omission the auditor should protect himself by mentioning the matter in his report.

Exchanges.—In dealing with foreign countries to any large extent an account should be kept showing the difference in exchange and the net result for the year.

We now reach the third division of the Profit and Loss Account, to the credit of which the balance of revenue is carried. This side will contain items not of the nature of trade transactions, such as transfer fees, which should be checked by the number of transfers entered during the year, and all extraordinary earnings on the debit side are placed in the following accounts:—

Debenture Interest.

Mortgage Interest.

Interest on Prepaid Calls.

These accounts are checked by observing the dates of moneys received and the capital moneys repaid. The production of coupons paid will vouch the interest payments, and of cancelled debentures the capital repayments. The other interest payments are vouched in the usual way.

Preliminary Expenses.—This will show the proportion written off during the year; the total amount of these expenses is usually written off over a period of three to five years.

Goodwill.—The writing off of this account is a very debatable matter. It is an asset of doubtful value. In the case of a lease it may disappear altogether, and should be written off annually; it is only of value whilst profits continue to be made, and should depression of trade set in it will also disappear altogether. When it exists in the books of a business it should be separately and clearly stated in the Balance Sheet.

Income-tax.—This being a purely personal payment it should be separately stated. It is a tax upon profits and not upon earnings, and when not actually paid should be provided for in the Revenue Account. If this is not done a larger amount might be drawn out of the business than ought to be.

Dividends.—The sum authorised to be paid will be found in the Minute Book. The payments will be vouched by the returned dividend warrants. Many large companies pay the exact total amount of the dividends into a special Bank Account, deducting the tax where necessary. A statement from the bank showing the amount of dividend warrants paid may be safely accepted by the auditor as sufficient evidence without going over every separate dividend warrant.

Where numerous, a special Bank Account is also often opened to provide for payments of interest on debentures.

Balance.—The balance of the Revenue Account will represent the profit or the loss, as the case may be, and will

appear in the Balance Sheet among the liabilities in the case of profit, and in the assets in the case of loss.

We will now turn to the Balance Sheet.

Our previous examination of the Profit and Loss Account will assist us materially in checking the items contained in the Balance Sheet. A great deal of care is needed here, as there is a natural inclination to state the assets too favourably and to understate the liabilities. You must, therefore, use your best judgment upon every item, and not be influenced by future prospects, however promising. Every possible information should be obtained until you are able to form a reliable opinion. Securities should be examined, valuations obtained, documents and certificates inspected. The statement when certified becomes that of the auditor, and he cannot put the responsibility of it upon anyone else, unless he publicly states he has had to accept certain values because he could not obtain any better evidence in regard to them.

On the assets side the first item is usually Land and Buildings. This is a case where no proper valuation can often be obtained. The purchase-price is probably given in the prospectus of a company, and we are then entitled to make use of that amount. The present value may be less, but without a formal valuation we cannot give other figures: we can only state it to be cost price, and show the additions to and the depreciation written off since.

Machinery and Plant.—The same remarks will apply hereto.

Loose Tools, Horses, Carts, &c.—By far the best plan is to have a valuation made at each stocktaking of these assets and properly certified.

The matter of depreciation must ever be kept fully in view by the auditor, and if nothing is charged for it against profits the facts must be clearly stated in his report.

Goodwill.—I have already dealt with this item, and will only say that the original price paid for it and the sum written off should be shown.

Stock-in-Trade.—This will be vouched by detailed valuations, duly certified by responsible managers, and should be carefully inspected by the auditor, who may not be able to put absolutely correct values upon it, but who can, however, exercise certain checks with invoices, cost sheets of production, &c.

Book Debts.—Lists of all open accounts should be checked with the Ledger; instances of fraud have occurred where lists have been produced and not checked. It is also necessary that the lists be gone through by the auditor, that he may judge if the accounts are good by observing the age of each debt and ascertaining the length of credit usually allowed. The use of a monthly Balance Book is of great value, and is to be strongly recommended as being a means of clearly showing by comparison the monthly position of each debtor to the business. All

accounts that are known to be bad should be written off at once.

Bills Receivable.—The balance of this account should be vouched by the production of the bills themselves, and any renewals should be specially looked into. Bills discounted and still current must be stated as a contingent liability and carried short on the Balance Sheet.

Bank Balance and Cash-in-Hand.—The balance in the bank will be vouched by the Pass Book and banker's certificate; the cash-in-hand should be paid into the bank on the last day of the period under audit, or first thing next day. Where this is not possible it should be counted and certified by one of the managers.

Preliminary Expenses.—These expenses are unavoidable in the formation of a company, and include preparation of the memorandum and articles of association, printing, stationery, books, advertising, plans, and all expenses usually up to the allotment of shares, though there is no hard and fast rule. If the business were to fail no value would attach to this item, so it should be made to disappear as rapidly as possible.

Rent, Rates, Taxes, and Insurance Paid in Advance.—The amount of this item should be vouched by schedules, giving full particulars of each item paid.

Investments.—The scrip, bonds, certificates, and other securities, or the certificates of responsible persons, should be seen. No depreciation need be deducted except from investments of a wasting nature, such as shares in a single-company.

On the liabilities side will first appear the share capital. Here should be stated distinctly the authorised nominal capital carried short and ruled off. Then the subscribed capital, with the amount called up and paid up, stating the calls in arrear and calls paid in advance, if any, and the net amount received carried out into Cash column.

These points should be made known, so as to give the shareholders full knowledge of their interest in the company, and also to inform the public who allow a number of people to trade with limited liability.

There will appear debentures and loans on mortgage. These will be vouched by comparison with the Minute Book, and the moneys received on account of them and share capital will be checked with the debtor side of the Cash Book.

Bills Payable will be checked by the Bill Book.

Sundry Creditors must be checked by detailed lists and the Ledger Accounts. All the necessary entries should have been made to include every known liability accrued up to the date of the balance, not omitting interest on debentures and loans, which should be checked with the Revenue Account debits.

Drafts in Transit.—This is a temporary account opened

at balancing time to make the books at the head office and the branch office agree; it disappears as soon as the bills are presented and accepted.

Reserve Fund.—The sums placed to credit of this account are authorised by special minutes, which should be examined by the auditor to see if the correct amounts are set aside. I think there should be no such fund opened while there is an amount for preliminary expenses included on the assets side of a Balance Sheet, but it is sometimes done.

The only remaining item is the balance brought from the Net Revenue Account, as to which we satisfied ourselves when examining that account. As you are doubtless aware, in the books of a private firm this amount is credited or debited to the partners' Capital Accounts, but in a limited company's books it remains as a Profit and Loss Account, subject to sums transferred to Dividend and Reserve Accounts.

Contingent liabilities, when they exist, should be stated, but the amount should be only carried short, and not included in the total of the Balance Sheet.

It is now the duty of the auditor to certify to the shareholders the result of his work. If he has found the accounts to represent a true and correct view of the state of the company's affairs it is his privilege to state this in his report; but, if he is not satisfied, he should make a special report to the members, giving his reasons for not signing the Balance Sheet. A special report may injure the company and the shareholders, in whose interests the auditor is acting, and should be made with every care, and only when absolutely necessary.

In this short review of auditing I have endeavoured to explain a method of examining the books of a business, so as to ascertain in a reasonable time what they say. I may have omitted some points, but I believe I have dealt with the important ones. I hope you will have gathered from my remarks the following facts:—

That the audit of the accounts of a large business involves a considerable amount of labour; that to be of any use an audit must be methodically conducted; that an auditor's position should be independent and confidential, and that his report must be truthful.

The wider an auditor's experience the more effective will his audit be and the more able will he be to point out improvements where necessary, and where they can be introduced. A great deal of help and information is obtained by tact and courtesy in our dealings with our clients—sharpness and trickiness are a mistake.

An auditor who refuses to subscribe his name to any certificate that conceals a doubtful state of affairs will eventually gain the respect of all business men, and will also satisfy his own self-esteem.

Municipal Reserve Funds and Depreciation.

THE fifth annual conference of the Municipal Tramways Association, held at the end of last month, was again the occasion for the reading of some interesting papers on subjects within the Association's sympathies. In the course of an able presidential address Mr. J. B. Hamilton, of Leeds, is reported to have said:—

"The necessity for reserve in addition to maintenance out of revenue is a burning topic on many committees; different policies have been adopted, which may roughly be grouped under these heads:—(a) Those who take all surplus profits (after providing working charges, interest, and sinking fund) to a Renewals and Depreciation Account in some form or other; (b) the other extreme, where only the working charges, interest, and sinking fund are retained, and the whole of the balance paid in relief of rates; (c) the medium policy, such as has been adopted in Leeds, where a substantial sum has been set apart out of each year's profits to form a reserve for renewals and depreciation, and the balance of profit (averaging in Leeds during the past five years about £54,000 per annum) applied in relief of rates. Our reserve fund so accumulated now amounts to £118,500, representing nearly 10 per cent. on the capital expenditure, in addition to the Sinking Fund Account, which now amounts to £175,200, making a total of the two funds £293,700, or about 22 per cent. on the capital expenditure.

"In our earlier days some members of our council maintained that we had no right by law to form a reserve fund, but that all profits, after providing for interest and sinking fund, must automatically pass to the city fund. My committee, however, were unanimous as to the advisability of our forming such a fund, and the council, with some protests, allowed it to be commenced, and in 1904 obtained powers from Parliament in their Consolidation Bill to set aside a sum not to exceed at any one time a sum equal to one-fifth of the aggregate capital expenditure for the time being—i.e., not more than 20 per cent. Without venturing to offer an opinion on this vexed question as to a general practice, I may say that we in Leeds are quite satisfied with the financial position of our undertaking, and consider it a sound policy for the ratepayers to receive some benefit in the relief of rates as interest on the capital employed, for which they, as ratepayers, are responsible."

In this connection notice may be made of an interesting report made by the professional auditor to the Newcastle-on-Tyne Corporation and the tramways manager of the same town:—

"Although the Reserve Account now stands at £128,173, the auditor says that in the opinion of the manager (Mr.

Hatton) it should be £189,127, or £60,954 more, against which there is a surplus on the Revenue Account for the past year of £18,704. The auditor suggests that the latter sum should be carried to the Reserve Account. 'The true friends of municipal trading,' says Mr. Hatton, 'are those who, in addition to paying the interest and redemption provided for by the several Acts under which the tramways are constructed, are endeavouring to build up a reserve and renewals fund for the time that will too surely arrive, and by thus putting the undertaking on a sound, business-like footing at the present moment they will prevent what will otherwise be a blow to municipalisation. Reference has been repeatedly made in the press that it is not necessary to have a reserve and renewals fund, and the friends of municipal trading who argue on those lines—viz., that the whole of the net surplus should be devoted to the relief of the rates, or the reduction of fares, &c., and that no such fund is necessary, seeing that the capital is being redeemed—are thereby placing the undertaking in a false position; and it is only a question of years before this fact will be demonstrated. The statement that no reserve or renewals fund is necessary would be strictly correct if the life of the various parts of the undertaking coincided with the terms of borrowing; but since the life of these various parts of the undertaking is shorter than the periods the loans are granted for, and as the corporation cannot reborrow without first redeeming the outstanding loans, then, when these parts are worn out and require renewing, it will be necessary to levy a rate for that purpose.'"

From a further report of the proceedings of the tramways conference in the columns of the *Municipal Journal* we extract the following:—

"A debate on depreciation followed Mr. Holford's paper on the life of a tram rail. Mr. J. McCormick (Belfast) agreed generally with the doctrine laid down by the writer of the paper in respect to the question of renewals, so far as cars and overhead equipment were concerned. Having regard to the fact that many corporations were only commencing their tramway undertakings, and were more or less handicapped at the initial stages, he thought they should not burden themselves with a heavy depreciation fund. Mr. Flint (Leicester) remarked that those of them who were strongly in favour of the municipalisation of tramways and some other undertakings, were most anxious that these should all be placed upon a proper footing. Of course, a sinking fund was a depreciation fund. How far they should supplement that by another was a matter for them to discuss. Personally, he thought there was much need for it. They did not know yet how great the responsibility might be, and as wise men, looking to the future, they were compelled to provide against anything that might arise. Mr. Stephen

Sellon (London) said a sinking fund was not a depreciation fund, nor could it ever be. It simply meant that a sum of money was put aside so that when the term of years expired for which the sum of money was borrowed the money should be paid back. Depreciation was a different thing, because it meant money for renewing their material before that date had expired. If they borrowed money for twenty years they found some of their material worn out before that date. Mr. J. Dalrymple (Glasgow) said the Corporation of Glasgow had never set aside one single penny more than it considered necessary to meet renewals and depreciation. If he, as an individual, borrowed £1,000 to start business he must pay that back again before he was a free man. He looked upon the business of tramways started by a corporation just the same as an individual starting a business, and he thought its first duty was for a corporation to free itself of debt, because the business did not belong to it until it had done so."

The New "Old Bailey."

WE extract from *The Times* the following description of this new building :—

The new building which is to take the place of the out-of-date and inadequate one familiarly known as the Old Bailey, and thus afford a more convenient home for the Central Criminal Court, is now practically complete. The finishing touches are rapidly being given to it, and although no date has yet been fixed for the formal opening, everything will very shortly be ready for the performance of the ceremony and for the transaction of business, which will immediately follow. The new Sessions House has been erected at a cost of some £400,000 from designs by Mr. E. W. Mountford, the architect, whose plans have been carried out by Messrs. Holloway Brothers, the contractors. It stands on the site of the old Newgate Prison, the property of the Corporation of London, whose City Lands Committee, of which Mr. Alexander Ritchie is chairman, is responsible for the new building.

The new Sessions House is a four-storey building, the principal façade of which looks on to the thoroughfare of the Old Bailey, from which access is gained to the main entrance by a flight of stone steps. After ascending these steps the public will pass into a spacious hall on the ground floor. This hall, which runs practically through the whole length of the building, is adorned by marble columns, and leading out of it on either side are double corridors, with stone arches supported by columns of different kinds of marble. It is interesting to note in this

connection that the foreign marbles largely used in the construction of the building have been entirely worked and finished in this country. The hall and corridors on the ground floor lead to the indictment office and the offices of the public officials connected with the Courts. At one end of this floor is a public refreshment room of spacious proportions. It has been decided that no alcoholic liquors shall be sold in this room. There are also on this floor very large general waiting-rooms for male and female witnesses, a grand-jury room, and other apartments. A staircase leads from the hall into the basement, which contains the heating and ventilating apparatus and public conveniences.

A fine staircase of alabaster, verde antique, and Hopton-wood marbles leads immediately from the entrance hall to the first floor. Here is to be seen the most striking feature of the building. It is a handsome hall, corresponding to what in French Law Courts is designated the *salle des pas perdus*. The middle of the hall is surmounted by a dome. On the panels of the dome, as seen from the floor of the hall, are allegorical paintings representing Truth, Wisdom, Knowledge, and Labour, the last of these being depicted in the guise of an idealised figure of a working man. These are the work of Mr. G. Moira, professor of painting at South Kensington. The pendentives which support the dome have been sculptured by Mr. Pomeroy, A.R.A., with figures representing Justice, Mercy, Charity, and Prudence, with various emblematical figures around them. On either side of the hall with the dome and forming one with it, are subsidiary halls with domed skylights supported by arches containing lunettes in which are paintings by Sir William Richmond, R.A., and Professor Moira. Sir W. Richmond has chosen a pastoral scene representing the golden age, which he has painted on the wall in tempera. Professor Moira's pictures are three in number, and represent the law-givers Moses and King Alfred, and the paying of homage to Justice. Justice has St. Paul's Cathedral as a background, and kneeling before her are the figures of a number of well-known English statesmen, soldiers, and divines, some of whom have but lately passed away, while others still survive. These pictures are oil paintings on canvas, and have been affixed to the walls. The City arms, it may be added, are frequently introduced in the details of the decoration of the hall. Two handsome stained-glass windows add to the effect of this part of the new Sessions House. They have been inserted under the arches supporting the ceiling of the staircase leading into this hall. The upper window is a bull's-eye window containing the arms of the Recorders of London. Beneath is a semi-circular window containing the Royal Arms, the arms of the City of London, those of the City of Westminster, and others.

On the same floor are the four Courts, which open out

of the hall just described. These Courts appear to be in every way well adapted for the administration of justice. There are two large and two smaller Courts. The principal Court is a handsome and dignified chamber with good accommodation for all concerned in the proceedings of a criminal trial. The gallery space for the spectators is not large, and has been purposely restricted. Those seeking admission to the galleries will gain access to them direct by a special entrance in Newgate Street, and will not pass through the principal halls. Counsel will also enter by a door set apart for them in Newgate Street, and will thus avoid the crowding and curiosity of the public. Beneath the Courts there are four floors of cells, which number about 120. These are so arranged that the dock of the Court is immediately connected with the cells. The Courts are panelled with oak, which gives them a rich and at the same time a severe appearance. The Judges will have private entrances to the Courts as well as private rooms, and the accommodation for them is kept entirely distinct from the hall and the parts of the building to which the public have access.

The civic apartments are a notable feature of the new building. There will be a drive by which the carriages of the Lord Mayor and the Judges will enter the precincts of the Sessions House. This will lead to a special entrance, from which access will be had to the Courts by means of a handsome oak staircase. The Lord Mayor's room is the most elaborate of the private apartments, and is panelled in oak enriched with carvings.

The second floor contains the committee rooms, dining rooms, rooms for the members of the bar, the representatives of the Press, and barristers' and solicitors' clerks. On the third floor are the kitchen and other offices. The whole building is ventilated and warmed on the Plenum system, which has been adopted with a view to obtaining pure air, an equable temperature, and absence of draughts.

An improvement much needed has been effected in regard to the conveyance of prisoners to the Courts, so as to prevent them from being objects of curiosity to the crowds who are apt to collect in the neighbourhood of Courts of Justice. The van containing the prisoners will be driven immediately into a covered courtyard containing the cells, and the prisoners will not be visible till they are called upon to take their trial.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, Sept. 28th, was 159, viz. :—

New Bankruptcy Proceedings published in the *London Gazette*, 71; Deeds of Arrangement registered, 88. The respective numbers in the corresponding week of last year were: Bankruptcies, 91; Deeds of Arrangement, 80—total, 171; being a decrease of 12. The total number of commercial failures recorded during the 39 weeks of the present year is 6,241; the total number recorded in the corresponding 39 weeks of last year was 6,645, showing a decrease of 404.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, Sept. 28th, was 139. The number in the corresponding week of last year was 154, showing a decrease of 15. The total number filed during the 39 weeks of the present year is 5,676; the total number filed in the corresponding 39 weeks of last year was 6,231, showing a decrease of 555.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, Sept. 28th, amounted to £1,499,201, by way of addition to £727,395, previously issued by the same companies. The amount registered in the corresponding week of last year was £432,179, showing an increase of £1,067,022. The total amount registered during the 39 weeks of the present year was £62,974,494 (in addition to the issues in previous years by the same companies), as compared with £59,963,524 for the corresponding 39 weeks in 1905, showing an increase of £3,010,970.

Bank Rate of Discount.

April 5th 1906	..	..	..	..	..	..	3½%
May 4th "	..	..	..	..	..	..	4%
June 21st "	..	..	..	..	..	..	3½%
Sept. 13th "	..	..	..	..	..	..	4%

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The Accountant

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EXAMINATIONS.

THE next Examinations will be held on the following dates:—

The Intermediate Examination on the 20th and 21st November 1906.

The Final Examination on the 27th 28th, and 29th November 1906.

The Preliminary Examination on the 4th, 5th, and 6th December 1906.

Persons desiring to present themselves for examination must give notice to the Council at least thirty days before the date of the Examinations, at the same time forwarding the examination fee.

Full particulars and forms may be obtained at the office of the Institute, Moorgate Place, London, E.C., and at the various Branch Libraries.

By order of the Council,

GEORGE COLVILLE,

Secretary.

October 1906.

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TABLE "A."

A reprint of the new Regulations
for the Management of a Company
Limited by Shares.

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Leading Articles.

Bankruptcy Law Amendment.

IN our issue of the 14th April last we stated that we had heard, from a source usually well-informed, that there was an inquiry on foot into the working of the existing Bankruptcy Acts, which might be expected to lead in the near future to a report by the Board of Trade with a view to further legislation for an extension of officialism which would *pro tanto* damage the interests of the accountancy profession. The inherent probability of this statement was somewhat

shattered by the public announcement, made almost at the same time, that the Board of Trade had appointed a Departmental Committee to inquire into the working of the Bankruptcy Acts, which included the President of the Institute of Chartered Accountants, together with representatives of the Law Society, the Chambers of Commerce, and the Trade Protection Societies; for no sane business men would be likely at this time of day to regard it as being in the interests of creditors generally that the dilatory, expensive, and inefficient methods of Official Receivers should be substituted for the employment of professional accountants, whose livelihood naturally depends upon the success with which they serve the interests of their clients the creditors. It would not be necessary to go very far, however, in order to find a precedent for a Departmental Committee whose recommendations had been entirely ignored, and had formed the preface to the introduction of a Bill framed upon quite antagonistic lines; and it is quite certain that such a Bill as that which we referred to last week, providing for the compulsory publication and official audit of solicitors' accounts, was never produced by the Departmental Committee on Bankruptcy now sitting. Under these circumstances we feel hardly inclined to be sceptical when our informant of April last tells us that he has been given to understand that the Board of Trade Bankruptcy Bill will provide *inter alia* a clause enabling the Board of Trade to fix the remuneration of a trustee in bankruptcy in all cases, even although neither creditors nor the bankrupt be dissatisfied with the remuneration voted by the creditors, or by the committee of inspection, as the case may be.

It is just possible that when the evidence taken

by the Departmental Committee has been published it may be found that there are isolated cases of excessive remuneration that call for an amendment of Section 72 (2) of the Bankruptcy Act, 1883, which provides that if one-fourth in number or value of the creditors dissent from the resolution, or the bankrupt satisfies the Board of Trade that the remuneration is unnecessarily large, the Board of Trade shall fix the amount of the remuneration voted to the trustee. But it is difficult to imagine cases in which anything approaching three-fourths in number or value of the creditors would deliberately vote remuneration to a trustee for services rendered which, in all reasonableness, would be better and more fairly employed in a dividend to the creditors; while the proviso that the bankrupt may himself appeal to the Board of Trade provides an effective safeguard against any possibility of collusion between the trustee and the creditors (or the committee of inspection, as the case may be) in those few cases where there remains a surplus after payment of all claims in full; in which cases, of course, the creditors have no interest in keeping down expenses. We repeat that, in a matter that affects the interests of all alike, the existing provision, enabling the Board of Trade to protect a minority of creditors from the over-generosity of a majority is quite unnecessary; and we may add that in actual working the provision enabling the bankrupt himself to appeal constitutes a legitimate hardship to trustees, in that its practical effect is that if, after careful inquiry and a considerable expenditure of time and trouble, the trustee succeeds in discovering assets which have been concealed by the bankrupt, and is thus enabled to pay creditors in full, he is then—so far as payment for his

services is concerned—at the mercy of the very man who, in the proper discharge of his duties, he has of necessity been obliged to oppose in every way. So far, therefore, as the existing provisions are concerned, if they call for any amendment at all it is in a direction more favourable to professional trustees; and it is thus clear that the amendment, which, we understand, is under contemplation, is not based upon any reasonable or equitable requirement of the situation, nor is it designed to remedy any existing abuses.

If it is really under contemplation to enable the Board of Trade to in all cases fix the remuneration of professional trustees, irrespective of the wishes of those who are most intimately concerned, and in the best position to form an opinion of the value of the services rendered by the trustee, it is clear that the object sought to be attained can be none other than that of directly attacking professional trusteeships *in toto*. It goes without saying that the Board of Trade would not grant a professional trustee a higher scale of remuneration than that charged by Official Receivers. If there were any doubt upon this point it may be set at rest by a consideration of the fact that, where it is appealed to, the Board of Trade almost invariably reduces the trustee's remuneration to the official scale, without any serious inquiry into the merits of the case. The official scale is one which may be made remunerative by the trustee whose conception of his duties is strictly limited to that obtaining among Official Receivers, but it would be quite inadequate to yield any reasonable profit for such services as a professional trustee renders—and which, in point of fact, he always does render before he gets anything materially higher than the scale referred to. If the scale

of remuneration be fixed in advance, and the position of trustee in bankruptcy be regarded as a mere trade to be pursued at a profit, the holder of that position will naturally give as much time to the performance of his duties as he thinks will produce a paying result, and no more; in exactly the same way that Official Receivers now act, and have acted since they were first appointed in 1884. Assets that can be taken hold of and turned into money will be sold for what they will fetch at the earliest possible moment; and, wherever possible, auctioneers or brokers will be employed to do the actual selling, so that the estate has to pay two sets of costs. But the price realised will be unsatisfactory, because it will be thought better to effect a speedy realisation than to nurse the assets; and in cases where the title to the assets is disputed the trustee will, as a rule, do nothing at all, because it would not pay him to devote any serious amount of time to fighting a claim when his only chance of remuneration rested upon the possibility of his being successful in so doing. The result will very likely, on paper, suggest an enormous improvement. The percentage of costs to assets realised will naturally be increased, because all assets difficult of collection will remain unrealised, and thus a considerable amount of time which might have been usefully employed will not have to be paid for, but the aggregate amount of assets collected will undoubtedly suffer, and so too will the interests of creditors; but doubtless the Board of Trade will not be slow in taking credit to itself for enormous improvements in economy, efficiency, and speed of realisation in bankruptcy matters.

It may be argued that, if we anticipate this result from the remuneration of trustees being fixed at an inadequate maximum, we are

imputing to those ordinarily occupying these positions a low conception of their duties which is incompatible with their position and past achievements, and with the position they occupy as members of a distinguished profession. We can only reply that under existing conditions these appointments are tacitly offered to accountants upon the terms that the amount of their remuneration shall be commensurate with their success in realising assets for the benefit of creditors, and that the work being thus of a speculative character, it shall, in cases where success attends the trustee's efforts, be remunerated upon a reasonably generous scale. If, however, the entire position is to be altered, and the remuneration is to be determined solely by the amount of assets realised, quite irrespective of the difficulty attending their realisation, then it is only reasonable to suppose that those accepting these appointments will do so as business men, and upon a business footing. It is notorious that Official Receivers so regard the matter in cases where they are trustees, and the circumstance is not generally regarded as implying any reflection upon their personal honour. The apathy of Official Receivers, and the inefficient manner in which they discharge their duties, are generally regarded—not merely by accountants, but by all business men who have had experience in the matter—as the necessary and inevitable result of the official system, aggravated in their case, of course, by the further circumstance that, being themselves paid fixed salaries, Official Receivers have only a limited interest even in the amount of fees earned by their department.

Inasmuch, however, as the comparison between official and non-official charges is apparently about to be revived, we think it desirable to point out that official charges are

not based upon commercial principles, and that while the Official Receiver's Department is annually a serious loss to the taxpayer, that loss would be greater still if the commissions earned by Official Receivers upon the assets realised by them be the sole source of income. As matters stand, Official Receivers can, of course, afford to under-cut every class of accountant in the matter of fees, for the simple reason that it is quite immaterial to them whether their business is conducted at a profit or at a loss, whereas accountants naturally accept such work as a means of livelihood. Where there is no equality of opportunity, and no possibility of bargaining upon even terms, there can, in the nature of things, be no genuine competition. The main point, however, to which we wish to draw attention in the present article is not so much that if Section 72 (2) be amended as contemplated, professional accountants will be obliged to give up bankruptcy work altogether, but that any such amendment prohibiting creditors from paying what they consider to be reasonable fees for the services rendered, must, in the long run, have the effect of depriving creditors of the services of those who are best able to serve their interests. The immediate effect will, of course, be that the accountants occupying the best positions, and to whom alternative methods of earning an income are open, will be the first to give up bankruptcy work, and thus the competition—if it can be called competition—will be between Official Receivers and second or third-rate practitioners.

Under such circumstances it would not be altogether surprising if an impartial comparison of results should be found (if the necessary data were available) to be in favour of official trustees. But by that time the problem

would, of course, have assumed an entirely different aspect. From the creditors' point of view, if a certain quite limited number of successful bankruptcy practitioners were to be compelled to give up that class of work, it would be a matter of indifference to them who had the conduct of affairs, for the result would be in all cases practically identical—that is to say, it would be too poor to justify the creditors in taking any further interest whatever in the matter, in that the prospects of any reasonable return would be so trifling as to make it essentially unbusinesslike to devote a second thought to the realisation of an estate after once a receiving order had been made. When once that position of affairs has been brought about, we presume that the Board of Trade will congratulate itself upon having achieved a very notable reform; but it must not be surprised if it finds as a result that the number of receiving orders dwindles down to trifling figures, and if the number of private arrangements between creditors and debtors effected outside even the Act of 1887 so increases as to represent no inconsiderable proportion of the total number of insolvencies. If the Board of Trade will undertake to reasonably amend the Deeds of Arrangement Act, so that a substantial majority of creditors may bind a dissenting or blackmailing minority, neither creditors nor accountants will much mind if it arrogates to itself the monopoly of bankruptcy work; but, until this desirable consummation has been brought about, business men will be well advised to view with the gravest suspicion any tampering with the existing Bankruptcy Acts, the whole object of which is obviously to increase the influence of an inefficient officialism.

Secret Reserves.

THE annual meeting of the Birmingham Small Arms Company, Lim., was held at Birmingham on the 1st inst., the Chairman of the Board of Directors, Sir HALLEWELL ROGERS, presiding.

The Chairman, in moving the adoption of the report, pointed out that the profits amounted to £7,412, which was some £7,000 less than in the previous year. The dividend on the ordinary shares, including bonus, would, however, be 15 per cent. for the year, which, he reminded the shareholders, was equivalent to 22½ per cent. upon the old capital before the bonus shares were issued. No reference was made to the recent discussions and litigation with respect to Secret Reserves, and upon Sir ALFRED NEWTON attempting to bring these points before the meeting, a resolution was passed, on the proposition of the Chairman, that Sir ALFRED be not heard. A subsequent amendment that the report and accounts be not adopted, and that a committee be appointed to inquire as to the amount, investment, and application of the Internal Reserve, was ruled by the Chairman to be out of order, as no notice had been given, and the report and accounts were then adopted, although apparently amid some uproar.

The internal affairs of the Birmingham Small Arms Company, Lim. (or, for that matter, of any other company), do not concern us here. It is the question of principle involved with the so-called Internal Reserve that is of especial interest to our readers, and upon this matter, apparently, no further discussion is to be allowed to take place at meetings of the company. That being so, it is of interest to turn to the published accounts and

the auditors' report. To the Balance Sheet is appended a foot-note stating that, "pursuant to "the articles of association, the assets representing the Internal Reserve have been "omitted from this Balance Sheet"; while the auditors' certificate and report states, *inter alia*, that the Balance Sheet is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs, as shown by the books of the company, "exclusive of the assets representing the Secret "Reserve, which has been invested and applied "in accordance with the provisions of the articles "of association." Without pausing to inquire whether it is possible to invest a Reserve, or whether it is not the assets representing that Reserve that have to be invested, we would like to ask whether it is really a fact that the only omission from the published Balance Sheet is the asset representing the Internal Reserve. As Mr. Justice BUCKLEY pointed out when the matter was first brought before him, it was impossible to omit something from one side of a Balance Sheet without there being a corresponding omission from the other side, if the two sides are still to balance. Surely the Balance Sheet of the Birmingham Small Arms Company, Lim., can only be said to exhibit a true and correct view of the state of the company's affairs, as shown by the books of the company, subject not merely to the omission therefrom of the assets representing the Internal Reserve, but also to the omission from the debit side of the item representing the amount of the Reserve itself. This point is so obvious that we may perhaps be accused of splitting hairs in drawing attention to so purely technical an error in the auditor's certificate; but in view of the fact that the policy of the board is still objected to by a somewhat influential minority of shareholders,

we think it by no means impossible that more may yet be heard with regard to the matter. So far as we can see, the accounts have been issued in a form which Mr. Justice BUCKLEY decided was *ultra vires*, and in all probability, therefore, the aid of the Courts will again be invoked.

Passing on to another point, however, we may suggest that a company whose profits fluctuate so much that in one year they are a little more than half they were in the previous year is one which, while from one point of view it may be regarded as a particularly suitable subject for Secret Reserves, from another it must be regarded as especially unsuitable. With such fluctuations it seems eminently reasonable that shareholders should be possessed of the means of ascertaining whether there has been any corresponding falling-off in the actual profit earned, or whether the drop merely represents divisible profits which have been kept back by the directors for purposes of reserve; and, *per contra*, when profits are maintained at a uniform level shareholders would probably like to know whether the real profits are uniform, or whether they have been levelled up out of the Reserves created in previous periods. The point is of especial interest, because, of course, boards of directors do not continue in office for ever. It occurs to us, however, that, in issuing accounts showing a profit of but little more than half the profit shown in the previous year, the Board has demonstrated in the clearest possible way the fact that a Secret Reserve is in its opinion unnecessary for this particular company. We have always understood the argument in favour of Secret Reserves to be that by their aid violent fluctuations in profits could be concealed from competitors and employees, thus protecting

the undertaking from undesirable competition and labour troubles. If, however, in spite of these Secret Reserves, the acknowledged profits are going to be allowed to fluctuate by 100 per cent., we must confess that we fail to understand what valid objection there can be to their true extent being disclosed.

The Revised Table "A."—II.

CONTINUING our observations on the provisions of the new Table A recently prescribed by the Board of Trade, we come to those sections that are of especial interest to our readers—namely, those dealing with Depreciation and Reserve Accounts and Audit.

Clause 95 empowers the company in general meeting to declare dividends up to an amount not exceeding that recommended by the directors, and the following clause supplies a notable omission in the previous Table by empowering directors to from time to time pay such interim dividends as appear to them to be justified by the profits of the company, while Clause 97 declares that no dividends shall be paid otherwise than out of profits. Presumably the term "profits" used in this connection is profits as defined by existing legal decisions upon the subject, which it must be admitted leave it extremely vague, declaring that in some cases divisible profits may have been earned even although a strict account as between Capital and Revenue would show a loss, while on the other hand making it doubtful (*vide Dovey v. Cory*) whether there is at law any such thing as profits unless they exist in the estimation of reasonable business men as a result of due inquiry. This decision of the House of Lords certainly suggests that the ultimate test of what are divisible profits is to be found in the

judgment of reasonably prudent business men, and that the Courts would not set up a standard of which such a tribunal disapproved. But, however that may be, the leading cases, which it seems hardly necessary for us to enumerate at length, show that the Courts have from time to time declined to interfere when it was clear to business men that profits were not being ascertained upon a business basis. Article 97 thus makes no attempt whatever to clear up the existing uncertainty; and it must perhaps be admitted that upon the whole this is as well, inasmuch as it would be extremely difficult, if not impossible, to attempt to define divisible profits in such a manner as would be suitable to all conceivable circumstances and cases. Moreover, of course, the clause was not compulsory, and thus nothing would be gained by making it unduly strict, while yet again the fact that this new Table has been sprung upon the community without adequate opportunity for perusal and discussion make it still further desirable that it should remain free from really debatable provisions.

Clause 98 follows the provision now made by most articles of association, that dividends in respect of partly-paid shares are to be paid according to the amounts respectively paid up thereon, and not according to the nominal amount of the shares, moneys paid in advance of calls, and carrying interest, being of course excluded from the amounts deemed to be paid up on the shares for this purpose. As a normal article this is clearly more in accordance with the requirements of the position than the provisions of the original Table.

Passing on to the provisions with regard to accounts, those of the greatest interest appear to be Clauses 106 and 107, which provide for

the annual submission to the company in general meeting of a Profit and Loss Account and a Balance Sheet, made up to a date not more than six months before such meeting. The *pro formâ* Balance Sheet appended to the old Table is omitted altogether; which is, we think, a pity, for although the form is quite capable of improvement, it was by no means without its value, and has exercised a considerable influence on accounting during the past forty years or so, as is evidenced by the fact that it has been responsible for the sides of the Balance Sheet being transposed. The requirement that a Profit and Loss Account shall in all cases be submitted will doubtless be literally construed where the clause is allowed to stand at all, and the amount of information disclosed by such Profit and Loss Account can never be expected to be very much. The provision is, however, of considerable value, inasmuch as a true Profit and Loss Account can only be compiled from books kept by double-entry, and thus the clause directly tends to encourage adequate systems of accounting upon the part of all companies. Whether, however, its compilers actually appreciated this point may perhaps be doubted.

The provisions as to audit are disappointing, in that they merely indicate that the audit is to be in accordance with Sections 21, 22, and 23 of the 1900 Act, and are therefore obviously redundant. If these *pro formâ* articles are to include anything beyond what is absolutely necessary for the sake of clearness one can think of many provisions that might have been made on the subject of audit with a view to making more explicit the effect of Section 23, at least in the case of those companies to which this Table applied. Such, for instance, as the

circumstances under which an auditor is justified in stating that his requirements have not been complied with, and the circumstances (if any) under which it is desirable that he should embody his report, or any portion thereof, and, if so, what portion, in the statutory certificate.

From what has been stated in this and the preceding article it will be seen that those interested in company practice will find much that is worthy of careful attention in the new Table A, copies of which can be obtained from Messrs. GEE & Co.

Weekly Notes.

Insufficient Capital and Bankruptcy.

A debtor examined in a County Court a short time since admitted that he was still an undischarged bankrupt under an order of adjudication made against him in 1888, and that, notwithstanding this, he commenced trading six years ago with a capital of £20, which had now been converted into a deficiency of £1,460. This represents an average of £240 a year contributed by the bankrupt's creditors towards his sustenance, which is, of course, quite a respectable income for a tradesman in a small way of business. It is certainly desirable that Parliament should endeavour to make it more difficult for undischarged bankrupts to continue to carry on business, but so long as traders continue to be absolutely reckless in the granting of credit it seems almost hopeless to expect any material decrease in insolvency of this description; indeed, it seems quite an open question whether the recklessness of traders in giving credit where no credit ought to be given is not actually responsible for a considerable proportion of the lesser failures that occur.

Trade Terms.

Some little time ago Mr. Justice Grantham spoke of the number of lawsuits arising out of terms used in the Bradford trade, and the manufacturers' section of the Chamber of Commerce of that town has now resolved that it would be useless to attempt to define Bradford trade

terms, as such terms have different meanings in different circumstances. Merchants and manufacturers are therefore recommended to avoid the use of ambiguous terms and to state clearly in their contracts the conditions under which the goods are bought and sold. If trade terms are capable of being used in the fast-and-loose manner suggested, then by all means get down to plain English, as that will save time and—lawsuits.

Metropolitan Water Rates. We understand that the Metropolitan Water Board is promoting a Bill empowering it to charge rates, other than those already in force, which are identical with those imposed by the old companies, save that the rebate allowed by some is no longer in force. If it should be necessary for the water rates to be increased in order to make both ends meet, it is clear that the management of the Board is in some way less efficient or less economical than that of the old proprietary companies. This, however, would not be an altogether surprising result, for experience shows that undertakings not run for the purpose of making profits divisible among proprietors who control the management are never run upon those lines which result in the maximum profit available under the circumstances.

Railway Shareholders and their Rights. A significant leading article in *The Financial Times* calls attention to the need of an awakening in the railway world, or that portion of the world which is *not* composed of railway servants. Railway customers and railway employees have their defence associations, it is argued, but the poor shareholder has no one to plead his case; the directors maintain a stolid British silence so characteristic of our insular conservatism, and so the shareholder can but sit still while the walls of his investment fall, and the demagogue outside crams his distorted "facts" down the throat of that beast of burden—the public. It is doubtless quite true that the average person knows really very little about the working of a railway from a financial point of view; he imagines it a Midas or a Mercury, from which to wring the next best thing to free transport. The railway servant is generally striking either for shorter hours or longer pay, the average passenger has no conscience when it comes to dodging the ticket-collector, and the shareholder, after locating his dividend pittance in his right-hand pocket, *sometimes* says "Tell me something about the company!" Then the directors see the

bogey of ten-mile statistics rise up from the board-room table—they beat a hasty retreat, and the circle of confused issues is complete. We should add that, apparently, in the minds of those persons who worship at the altars of Democracy and Division, the railway shareholder is a bloated capitalist of the worst type. This view is as essential to the demagogue as the cigarette of dubious virtue is to the villain of contemporary melodrama. It is, perhaps, hopeless to suggest any combination of railway shareholders in their own interests, for the chance of success is in inverse ratio to the number of units, and the 700,000 of this class would perhaps not exhibit any greater unanimity than the 600,000 railway servants who have added to the gaiety of nations so recently.

Municipal Insurance. The mutual insurance scheme was, of course, bound to be hard hit in the event of any substantial claim arising during the preliminary years when the building-up process was at work. The writer of Insurance Notes in the columns of a financial contemporary cites the case of Swindon against the preachers of the "false economy" that a corporation should bear its own risks. It will be remembered, no doubt, that the local authorities decided not to insure against liability to the public in respect of the tramways, and the results of the regrettable accident in June last have, it is said, involved the infliction of a special rate of 1s. in the £. The paragraphist in question says "It is well that events of the 'kind should be made known 'pour encourager les 'autres.'"

The Currency Question in the States. The special Currency Committee of the New York Chamber of Commerce has recommended that a flexible elastic bank-note currency should be provided for by legislation. The alternative schemes are the establishment of a central bank of issue, as in France and Germany, or the enlargement of the present privileges of the national banks as regards note issues. The Committee is of opinion that it would be unwise to disturb the present bond-secured circulation, as that would tend to unfairly depreciate outstanding Government bonds, but recommends that future Government bonds should not be available as a basis for these issues. The bank of issue is no doubt the better scheme, but it is not by any means likely that Congress will adopt such a plan, and, as regards the other scheme, the advices do not make it at all clear what is intended to take the place

of Government bonds as a basis for the security of note issues in the future.

Mr. Roosevelt on Trusts. According to a Reuter's telegram President Roosevelt, in the course of a long address on the occasion of the dedication of the new State capital building at Harrisburg, recently, said that it was a narrow construction of the powers of the national Government to assume, as the great moneyed interests had done, that they could only be used for the purpose of cutting out abuses. A check should be placed on the forces of greed so as to ensure the just treatment of capital, labour, and the general public. The proper supervision and control of the great common carriers would avoid the necessity for seriously considering the question of Government ownership of railroads, which would be evil in its results from every standpoint. Americans should look ahead for the right kind of civilisation, and such a civilisation should not be a mere plutocracy, a banking house, or a Wall Street syndicate, nor could it be a submission to such factors as class hatred and mob violence, which would mean an end of all civilisation.

Stock Exchange Reform. In common with our correspondent Mr. A. A. Macdonald, we would have been glad to see some discussion follow our article on this subject in our issue of the 22nd ult. We should like to point out, however, that we did not suggest that no official quotation should be granted to any company without an auditor's certificate certifying that the public unconditionally held two-thirds of the shares. In the nature of things no such certificate could ever be given, for the simple reason that it would be impossible for an auditor to make sufficiently sure of the facts to justify so positive a statement. What we suggested was that the auditor should certify that the allotment of shares had been carried out under his immediate supervision, and that, so far as he was able to ascertain, he had every reason to suppose that the various allottees held the shares standing in their respective names unconditionally and free from the control of any pool. We added, however, that even a reform of this description was not likely to prove very effective in practice until a law had been passed declaring participation in any pool having for its object the inflation or depression of the market price of any shares or stocks to be a criminal conspiracy to defraud the public. We should like to again point out that those who, recognising the existence of abuses, set themselves to find a

remedy therefor, would be well advised in all cases to leave things in their admittedly imperfect condition rather than provide elaborate schemes which *prima facie* suggest the existence of a safeguard, but which in practice are valueless because an altogether impossible duty is accorded to the guardian. Nothing, in our opinion, can be more mischievous than a certificate worded as a certificate of facts which is really but the expression of a mature and deliberate opinion.

Outside Bodies of Accountants. A provincial correspondent has forwarded to us a cutting from a local paper recording at some length a dinner given by the local branch of one of the rapidly increasing associations of accountants which have recently been formed to compete with Chartered and Incorporated practitioners. Upon looking through this report we find that the total membership of the Society, while by no means imposing, is half made up of students, and thus presents a quite fictitious appearance; and we further find that the income represents something less than £1 per head, so that obviously the whole concern is upon quite a small scale. The names of certain public men—as, for instance, the local Mayor and the local Member of Parliament—are mentioned in the report, but are apparently only dragged in, as their connection with the dinner appears to have consisted entirely of their inability to be present—and, indeed, so far as we can see, there would not appear to be any serious competition to be feared from practitioners of this class. On the other hand, we cannot but observe that this somewhat obscure function is reported in a provincial daily, at the length of some quarter of a column, under the heading of "Yorkshire Accountants' Dinner at Leeds," and there can be but little doubt that the public—never very observant—loses count of all these numerous societies, and ends by regarding all accountants as being more or less upon the same level. That this is at all events sometimes the case is shown by the fact that another correspondent mentions to us, apropos of the letter from Mr. W. G. Hall, which appeared in our last issue, that a friend of his informed him that the function held at the Royal Botanical Gardens on the 15th ult. was a gathering of the Chartered Accountants, of which his friend Mr. Morgan was the President. We do not for one moment suggest that anything said or done by any member or official of the Central Association of Accountants supported this mistaken view, but the fact remains that such mistakes occur, and from time to time recur. This liability to error is,

we think, not reduced by the coincidence that two of the bodies of accountants have secretaries with identical names.

**Co-operative
Societies and
Income-tax.**

The Chancellor of the Exchequer has written to the Drapers' Chamber of Trade intimating that he is considering the advisability of amending the existing law in certain directions recommended by the Departmental Committee on the Income-tax, and promising to bear in mind the recommendations of the Chamber and other commercial bodies regarding the relief from income-tax at present enjoyed by co-operative societies. So long as these societies consist of members having a position in life such that they would undoubtedly be entitled to exemption from income-tax, it is clear that nothing could be gained and considerable expense would be incurred by assessing the societies direct while leaving the individual members to apply for and recover income-tax overpaid by them or on their behalf. The Committee's attention was, however, drawn to the fact that very large and varied enterprises are now carried on under the Industrial and Provident Societies Act, and it accordingly suggested that it might be worth consideration whether further inquiry should be made into the conditions under which the privilege of registration under that Act is conferred. Inquiry and legislation in this direction would be more useful and more practicable, we think, than any alteration of the existing Income-tax Acts with regard to co-operative societies. While it is, of course, only fair that the small shopkeeper should not suffer from undue competition on the part of co-operative societies, it must be remembered that primarily the object of an income-tax is to raise revenue, and that, therefore, the tax must be levied upon such lines that its collection and the subsequent adjustment of inequalities are not unduly expensive.

**Municipal
Banking Accounts.** We understand that the local banks have declined to tender for the keeping of the Chester Corporation's Banking Account, and that as a result an attempt is being made to establish a municipal banking corporation, presumably upon the lines of a municipal fire office. With the financial prospects of a bank of this description we need not concern ourselves until (if ever) the project is in a more forward state. We may point out, however, that if the leading banks have decided to discontinue tendering for

large accounts, they have adopted a course of which there is much to be said, not only from their own point of view, but also from that of the ratepayers, who naturally object to being asked to pay rates before they are required merely for the purpose of increasing the current bank balance so that an advantageous contract may be made by the local authority with its bankers. The mere fact (if it be a fact) that bankers will not tender against each other for a local authority's account does not, of course amount to the same thing as a refusal to undertake it at all, or even to undertake it and allow a reasonable sum for the advantages that the account affords. It may be pointed out, however, that in view of recent decisions with regard to interest upon illegal overdrafts, the position of a bank in such cases is frequently one of some difficulty; and the prospects of making a reasonable return out of a large and troublesome account do not appear to be too rosy.

**Fire Losses
in
San Francisco.**

We understand that the completed assessments show that the total loss of property caused by the fire which followed the disastrous earthquake at San Francisco amount to a total of some fifty million pounds, and that upwards of twenty million pounds has already been paid by companies which did not repudiate liability. Towards this huge total the British companies have so far contributed nearly six and a-half millions, the largest amount—namely, £1,003,676—being paid by the London and Lancashire, while the Union of London, the Liverpool, London, and Globe, and the Atlas each paid upwards of three-quarters of a million sterling. The Phoenix and the North British losses amount to six hundred thousand pounds apiece, and those of the Sun to £420,000. These figures are, of course, not exhaustive, but we understand that there are comparatively few British claims still unsettled; whereas the German offices have adopted an attitude which has aroused considerable resentment in the States, and will, doubtless, lead to a considerable reduction of business in the future.

**Solicitors and
Trust Moneys.**

With further reference to our article of last week under this heading, there is, we understand, no doubt that a Bill of the description then referred to has been lodged with the Board of Trade, and referred by it to the Bankruptcy Committee; but whether the Bill was in fact drafted by Mr. Jellicoe on the instructions of the Board itself is still somewhat of a mystery. Until a little more is known with regard

to the facts it is probably useless to discuss the matter at further length, but we may mention that a measure, the effect of which was to take trust moneys out of the hands of solicitors—who, after all, in the vast majority of cases are men of substance and repute—and place them in the hands of others occupying less responsible positions, would defeat its own ends. Any measure dealing with the subject ought thus clearly not to be limited to solicitors. Were it to be extended to all persons in receipt of trust moneys it is probable that the bottom would be knocked out of the not very genuine agitation in favour of the establishment of a public trustee.

Cumulative Preference Shares. The letter from "W. E. S.," which we reproduced last week under the above heading, is of interest, as supplementing our brief footnote to the letter signed "Dunelm," which appeared in these columns on the 22nd ult. We might add further that while the articles of association of each separate company must, of course, be considered before any definite answer can be given to the question as to whether or not holders of preference shares are entitled to a dividend at the prescribed rate in respect of each year of the company's existence provided there be sufficient profits, the decision in *Bond v. The Barrow Hematite Steel Company, Lim.*, shows that in all normal cases holders of preference shares have no right to receive dividends, save where such dividends have been declared in the terms of the articles of association of the company.

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinions expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Wine Merchants' Accounts.

(To the Editor of The Accountant.)

SIR,—Will you kindly inform me if any book is obtainable dealing exclusively with the keeping of accounts of a wine, spirit, and beer merchant, who is

also a bottler, and whether such book refers at length to the vexatious question of empties? Also a book on the accounts of public-houses and hotels under management, and the treatment of such accounts for income-tax purposes.

Thanking you in anticipation,

Yours faithfully,

October 8th 1906.

BOOKKEEPER.

[Try Vols. XXXII., XXXVII., and XLIV. of "THE ACCOUNTANTS' LIBRARY."—ED. ACCT.]

Municipal Accounts and Finance.

(To the Editor of The Accountant.)

SIR,—I send you a cutting from a local newspaper reporting the proceedings at the meeting of a Borough Council. I do not give the name of the borough, or its officials, nor anything which would point to the identity of the borough, except the actual figures used (barring fractions), as I wish to avoid any personal element and to deal with general issues only.

The facts stated in the cutting are: (1) The several investments appear in the Balance Sheet at their cost price. (2) A portion of the investments existing on 31st March 1905 was realised during the period under review. (3) A deficiency of £498 was thereby occasioned. (4) A surplus of £2,310 arising from the purchase and cancellation of the borough's redeemable stock is included in the sum standing to the credit of the Sinking Fund. (5) After providing for the above-mentioned deficiency, £1,812 is available as provision for any contingent loss.

On this I wish to offer the following remarks:—No. 1 is all right. No. 2 leaves us in doubt as to the reasons why the securities were sold, especially at a loss, and under what authority, and what they were. No. 3. Clearly the sum realised by the sale should have been credited to the proper fund, and the loss should have been made good from the rates and not covered up under an alleged profit in some other head of account. No. 4. How does the surplus arise? The stock was no doubt issued under par, and the face value of the debt thereby increased. At the present time the value of 3 per cent. Corporation Stock in the market is below 90 per cent., and it is no doubt good policy to apply the annual instalment for the redemption of debt to the purchase of stock, and if the stock is cancelled there may be little objection to it. But it seems mere trifling to call the difference between the price of issue and the price now paid for it a surplus or a profit. If the stock is honestly cancelled, a relief

from the annual interest on the stock purchased is at once obtained, and the figure of the outstanding debt reduced and the transaction ends. No. 5. How does the available balance of £1,812 arise? No money has been received; on the contrary, it has been paid to the vendor of the stock purchased and cancelled. Is this corporation dealing in their own stock? Is it necessary to provide for contingent losses? The whole matter has an ugly aspect, painfully reminding one of East Ham.

Yours truly,
D.

[We can express no opinion upon a matter like this without having the accounts before us.—*Ed. Acct.*]

Points in Company Practice.

(To the Editor of *The Accountant*.)

SIR,—I should be pleased to have the views of members of the profession, through your columns, on the following case, which came before my notice as an outsider. The A. Company was formed to take over the B. Company as a going concern, the consideration being the issue of shares to a quarter the value of the nominal capital of the B. Company, whose shares were fully paid-up, such shares, after the transfer of the business, being the only assets held by the B. Company. The B. Company held these shares for some few years without receiving any dividend thereon, hence interest in the company ceased, and, as a natural outcome, it was difficult to get a quorum together at any meeting called. The Secretary called the annual meetings, but at the last a quorum could not be obtained, consequently the annual return was not sent to Somerset House, which drew a request from the Registrar for such return. The Secretary wrote explaining matters, and the Registrar suggested that the company should cease to exist at the expiration of three months from the date of his letter. The question then came, What was to be done with the assets—viz., the shares in the A. Company, which were known to be worth some little value, and also how was the Secretary—who was the only creditor—to be paid his arrears of salary and out-of-pocket expenses? In order to deal with the shares and get a quorum, a member transferred a few of his shares to each of four persons, and the Secretary, on the request of the two existing directors (although there were originally three, and the vacancy had not been made good), called an extraordinary general meeting summoning the transferees of the shares, although the transfers had not come before a board of directors, nor

had a new certificate been given. The requisite quorum was obtained and a resolution passed, authorising the shares to be put up by public auction, and giving the Secretary power to affix the common seal of the company to a transfer in accordance with the sale, which was eventually carried out, and the proceeds paid over to the Secretary—the only creditor. The transferee of the shares then lodged the transfer and scrip with the A. Company with a request for a new certificate to be issued in his name, which was met with a refusal on the grounds that the directors were not sure of the premises on which the shares were sold, although they had no power in their articles to refuse a transfer.

I have placed the case fairly fully as being one out of the ordinary, and am of opinion that the Secretary was not acting within his powers in calling the extraordinary general meeting without the consent of the directors given at one and the same time (in this case the consent was given by each director at different times); that the Secretary was justified in calling to the meeting the transferees of shares, although the transfer had not been passed by any board of directors, as they had no power in their articles to refuse transfers, and, also, a transfer of shares dates from the date of the execution of the transfer, which date was prior to the issue of the circular calling the meeting; that the A. Company had no power to refuse to register the transfer lodged with them, or refuse to issue a new certificate in accordance with the transfer, which on the face was regular and in order, and which was accompanied with the old certificate.

May I invite discussion on the points raised, and also on any others which may occur to any of your readers.

Yours faithfully,

2nd October 1906.

A.S.A.A.

Income Tax Surveyors and Balance Sheets.

(To the Editor of *The Accountant*.)

SIR,—Some of the Income-tax Surveyors are now demanding Balance Sheets when settling the assessment for Schedule D.

They only ask for them in the case of limited companies, but as many limited companies are practically private partnerships, there is just as much objection in supplying them as if the Balance Sheet of a private partnership were asked for.

I should be glad if you or any of your correspondents can answer the question: Are they entitled to ask for a Balance Sheet, and, if refused, to make it difficult to settle the assessment?

Thanking you in anticipation,

Yours faithfully,

9th October 1906.

INCOME TAX.

Check Figure System.

(To the Editor of The Accountant.)

SIR,—Referring to the letter of Mr. G. W. Mitcheson, A.C.A., in your issue of the 29th ult., I would suggest a somewhat shorter method than that set out by him.

Where the remainder of the pounds is an even number, divide by 2, add the shillings to the result, and subtract the pence. If the remainder happens to be an odd number, add 13 and divide by 2, add the shillings and subtract the pence as before. For example:—

Required, the check figure of £375 3s. 4d.

375 ÷ 13 leaves 11 over.
 11 + 13 ÷ 2 = 12
 12 + 3 = 15
 15 - 4 = 11 check figure required.

Again, required the check figure of £376 3s. 4d.

376 ÷ 13 leaves 12 over.
 12 ÷ 2 = 6
 6 + 3 = 9
 9 - 4 = 5 check figure required.

The following table of the check figures of £1 to £13 is useful:—

Even Numbers (divide by 2)	Odd Numbers (add 13 and divide by 2)
£2 = 1	£1 = 7
4 = 2	3 = 8
6 = 3	5 = 9
8 = 4	7 = 10
10 = 5	9 = 11
12 = 6	11 = 12
	13 = 0

Mr. Mitcheson points out that where the shillings are of the same denomination as the pence, the same check figure will result in each case, as, for example, 1s. 1d. and 2s. 2d. In addition to this the following amounts will be found to have the same check figure: 2s. 7d. and £2 7s.; 6s. 8d. and £6 8s.

Yours faithfully,

E. W. CRAWFORD, A.C.A.

Widnes, 9th October 1906.

Poor Rate Assessment.

(To the Editor of The Accountant.)

SIR,—I have been not a little interested in the replies given to the apparently simple question asked by your correspondent "B" in your issue of the 22nd ult.

Summarised, the results given by your correspondents appear to be as under:—

	Gross Estimated Rental.	Rateable Value.
Mr. Eckersley	£9 1 10	£7 5 6
Now amended to ..	9 12 3	7 14 0
Mr. Bland	9 12 0	7 14 0
Mr. Rogers	10 0 0	8 0 0
G. W.	10 0 0	8 0 0
H. B.	9 12 3	7 14 0

Of your five correspondents who have dealt with the point, three appear to agree that the figures should be:—

Gross Estimated Rental.. ..	£9 12 0
Rateable Value	7 14 0

while two of your correspondents make the amounts as under:—

Gross Estimated Rental.. ..	£10 0 0
Rateable Value	8 0 0

The difference in the results obtained appears to arise in connection with the water rate (10s.), the last-named correspondents having in their calculations treated this rate (or rent, as it is sometimes called) as not being a rate which may be deducted in arriving at the gross estimated rental.

Mr. Rogers states that "the charge for water is not a rate in the great majority of cases, it partaking of the nature of a rent, and no allowance is provided for by statute."

"G. W." appears to be of the same opinion, for he states that "The water rent (10s. per year) is not taken into account, as it is not a usual tenant's rate, and would not be allowed to be included with the other rates as a deduction from the gross rent to obtain the gross estimated rental."

In connection with this point, Mr. W. C. Ryde, in his well-known work on "The Law and Practice of Rating," (p. 143) says:—

"'Water Rate,' charged on premises for water supplied to them, is, strictly speaking, not a rate at all, but may be compared to a charge for gas, bread, or any other necessary of life; and, therefore, where the rent includes such a 'water rate,' a deduction should be made in calculating the rateable value."

And Mr. A. F. Jenkin, in his excellent "Manual for Overseers," (3rd edition, p. 94) says:—

"Where the landlord pays water rate, the amount of the water rate should be deducted from the rent in ascertaining the gross estimated rental, not because water rate is one of the rates the tenant holding on the terms of the Parochial Assessment Act, 1836, is supposed to pay, but because in such a case the portion of the so-called rent paid by the tenant represented by the water rate is not properly rent at all, but is in the nature of a payment for a commodity supplied."

In view of the above opinions, which, I may say, are supported by decided cases on the point, I suggest that the following is the correct mode of dealing with the matter:—

	£	s	d
Gross Payment by Tenant (52 weeks at 5/-)	13	0	0
Less Water Rate, or Water Rent, treated as being in the nature of a commodity	0	10	0
Gross Rent, including "all usual Tenant's Rates and Taxes"	12	10	0
Less Rates at 7/6 in the £ on a Rateable Value of £7 14s., say	2	18	0
GROSS ESTIMATED RENTAL	9	12	0
Less Allowance of 20 % for Repairs, Insurance, &c., say	1	18	0
RATEABLE VALUE	£7	14	0

Yours faithfully,

JAMES GIBSON.

Barnsley, 8th October 1906.

(To the Editor of The Accountant.)

SIR,—Your correspondent Mr. F. S. Eckersley appears to have very little difficulty in changing his opinion on the above subject, judging from his two letters in your recent issues. Perhaps the following may assist him in changing his mind for the third time.

It was decided in 1865 (and is still good law) in *Reg. v. Bilston* (L.R. 1 Q.B. 18; 6 B. & S. 908; 35 L.J.M.C. 73; 12 Jur. N. S. 139; 13 L.T. N.S. 327; 14 W.R. 83) that in estimating the rateable value of a tenement, no deduction from the gross value is to be allowed for water rate, Cockburn, C. J., saying: "It is neither a tenant's rate, nor an expense necessary to keep the premises in repair, or to maintain them in a condition to command the rent. Water is a thing the tenant has to provide himself with, and is a necessary of life as much as food."

Your two correspondents—Messrs. J. H. Rogers and "G. W."—replies are therefore the correct ones.

Yours faithfully,

MIDLANDS.

The Institute of Chartered Accountants in England and Wales.

At a special meeting of the Council, held on Wednesday the 3rd October 1906, at the Hall of the Institute, Moor-gate Place, E.C., the following persons ceased to be members of the Institute:—

- Mr. E. T. Jones, F.C.A., 52 Queen Victoria Street, E.C.
- „ R. McNaught, F.C.A., Bindloss Chambers, 4 Chapel Walks, Manchester.
- „ F. B. Cox, A.C.A., Rock House, Basford, Nottingham.
- „ R. Green, A.C.A., 13 Temple Street, Birmingham.
- „ A. P. Selby, A.C.A., North Lodge, Retford.

Chartered Accountants' Lodge.

THE second meeting of the Chartered Accountants' Lodge, No. 3,162, was held at the New Gaiety Restaurant, Strand, W.C., on Wednesday, the 3rd October 1906.

The following gentlemen were duly initiated, viz.:—Messrs. John Sutherland Harmood-Banner, M.P., Herbert John Page, Geoffrey Rowley Bostock, John Brinkler Woodthorpe, Charles Frederick Cape, and Frank Lindsay Fisher.

The following were unanimously elected members of the Lodge:—

As Honorary Members.

- V. W. Bro. Sir Edward Letchworth, G.S.
- W. Bro. Dr. Ralph Gooding, P.G.D.
- W. Bro. Edwin Fox, P.A.G.D.C.
- V. W. Bro. The Rev. Canon Horsley, M.A., G. Chaplain.
- W. Bro. Henry Times, P.D.G.D.C.
- W. Bro. T. A. Bullock, P.G.Swd.B.

As Joining Members.

- W. Bro. John William Barratt.
- Bro. Lionel Cuthbert Cropper.
- W. Bro. Percy Weiller Straus.
- Bro. Robert Simpson.
- W. Bro. William Hardy King.

The following members were present:—Messrs. W. Plender, W.M., John W. Woodthorpe, James H. Stephens, Francis W. Pixley, H. Woodburn Kirby, G. Sneath, A. H. Gibson, E. Edmonds, Arthur F. Whinney, W. H. Fox, Charles Eves, T. E. Shuttleworth, W. A. Bawden, E. Moore, R. Simpson, and the following guests, viz.:—Messrs. Edward Tozer, H. R. Schmattan, George May, and S. H. Tatham Armitage.

The Liverpool Chartered Accountants Students' Association.

Syllabus—Autumn Session, 1906.

President : Mr. W. E. Mounsey, F.C.A.,

Vice-President : Mr. W. C. Spencer, F.C.A.

Hon. Secretary : Mr. W. L. Evans (with Messrs. Chalmers, Wade & Co.)

Oct. 11.—Annual Dinner (at the Exchange Hotel, at 7-15 p.m.). President's Inaugural Address.

„ 26.—Joint Debate with the Sheffield Chartered Accountants Students—as arranged by the Union of Chartered Accountant Student Societies.
Subject : "Income Tax."

Nov. 8.—Lecture : "Some Notes on Income Tax," by Mr. Roger N. Carter, F.C.A. (Joint Author of "A Guide to Income Tax Practice").

„ 22.—Lecture : "An Executor Trustee," by Mr. G. H. Ashworth, A.C.A.

Dec. 6.—Lecture : "Bills of Exchange," by Mr. A. T. Miller.

At the Library, 3 Lord Street, at 6 p.m.

WORKING UNION.

Essay Competition.

The Committee of the (Working) Union of Chartered Accountants Students' Societies offer a first prize of five guineas, a second prize of two guineas, and a third prize of one guinea for the three best essays on "The uses and limitations of the Card, Loose-leaf Ledgers, and Slip Systems in relation to matters of Accounts."

The Rules appeared in our last issue.

The Society of Accountants & Auditors.

Twenty-First Anniversary Celebration.

THE twenty-first anniversary of the foundation and incorporation of this Society was celebrated last week in London, by the holding of the Autumnal Conference. The business proceedings, which commenced on Thursday last, were conducted in the Cordwainers' Hall, Cannon Street, E.C. The President of the Society (Mr. W. G. Rayner) occupied the chair, and there was a large attendance of delegates.

At the outset the Master of the Cordwainers' Company (Mr. G. W. Canham) extended a hearty welcome to the conference on behalf of the Wardens, the Court of Assistants, and himself. He expressed the hope that the conference would not only be of a pleasant and satisfactory nature, but that it might enhance the dignity of the

accountancy profession, and tend to the improvement of the checking of accounts throughout the business of our great country. (Applause.)

The President proposed a vote of thanks for the use of the hall, remarking that it was a very great pleasure to those present to be meeting in the hall of one of the ancient guilds of the City of London. In extending this hospitality the Company had conferred upon the Incorporated Accountants a very great boon. The Cordwainers' Company was one of the oldest in the city, dating back nearly 500 years. It was not, however, decrepit; indeed, it was full of life and vigour. It was still carrying out the purposes for which it was originally brought into existence, and it was gratifying to know that the trade which it represented was in a very flourishing condition in this country. There had been American invasion, but the ability and business acumen displayed by the members of the trade had been such that they had almost entirely routed the Americans. (Applause.) He trusted the ancient Guild would continue to do the excellent work in which it was engaged.

Mr. H. L. Price (Manchester) seconded the resolution and it was carried unanimously, a brief acknowledgment being made by the Master, who thereupon retired.

The Secretary (Mr. James Martin) announced that a communication had been received from the Dominion Association of Chartered Accountants forwarding a copy of the following resolution passed by the Council on September 4th :—"That the Council of the Dominion Association of Chartered Accountants in meeting assembled desire to convey to the Society of Accountants and Auditors (Incorporated in 1885) their hearty congratulations on the occasion of the twenty-first anniversary of its incorporation; that the Dominion Association recognises the warm interest shown by the Society in the efforts put forth to forward the welfare of the members of the profession within the Empire, and hopes that the continuous efforts made by the Society to secure Parliamentary recognition may ere long be crowned with success." Communications had also been received from the Canadian branch of the Society, the Transvaal Society of Accountants, and the American Association of Accountants, and also addresses from the Scottish and Irish branches of the Society, as well as the various district Societies throughout England, all congratulating the parent Society on the attainment of its majority, and expressing their sincere appreciation of the services rendered by the Society towards the advancement of high professional ideals, both within the United Kingdom and throughout the Empire."

The President remarked that all the communications which had been received spoke volumes for what had been done by the Society during its twenty-one years of

existence, and he wished to tender to the Committees of the different Societies his heartfelt thanks for the very kind expressions of loyalty contained in the various addresses.

The President then delivered the following address:—

The Position and Progress of the Accountancy Profession.

In reviewing the position and progress of the profession during the past twenty-one years, I do not intend to deal exhaustively with the history of accounting and accountants for the period, as a work under that title was edited by Mr. Richard Brown, of Edinburgh, for the jubilee of the Scottish Chartered Accountants, and in that work the development of the profession was ably and exhaustively traced from the early Italian accountants down to 1904.

Further, it is not my intention, in the short paper I am placing before you, to go over the ground step by step that our Society has trodden from its birth until its coming of age, as our Secretary, in a paper entitled "Incorporated Accountants in the British Empire," read by him last year, has anticipated me in this respect.

My purpose, however, is twofold—(1) To follow the progress of organised accountancy during the period; and (2) to glance at the commercial and other events affecting our position during the intervening years.

The Progress of Organised Accountancy.

The progress of accountancy as a profession since 1885 is remarkable. Dealing first of all with the United Kingdom, I find that twenty-one years ago the roll of the Institute of Chartered Accountants in England and Wales had the names of 1,337 members inscribed thereon; to-day the number is 3,492, showing an increase of 2,155. The Society of Accountants and Auditors for the same period has grown from *nil* to 2,097 fully qualified members. (I might here mention what I pointed out in my address at our annual meeting in May last, that the normal increase of our Society's membership has been checked by the exclusion of the names of the student members, who, at one time, were included to the extent of over 300. Our membership roll is now on the same basis as those of the other recognised bodies—*i.e.*, only the names of fully qualified Fellows and Associates are entered thereon.) The Scottish Chartered Societies at Edinburgh, Glasgow, and Aberdeen had a membership, in 1885, of 340, which has grown to 980 in the current year, or an increase of 640. Ireland, in 1885, had no separate organisation, the Institute of Chartered Accountants in Ireland not having been incorporated until 1888. It now has a membership of 70.

Putting all the figures together, the totals are—

English Chartered Accountants	...	...	3,492
Scottish Chartered Accountants	...	...	980
Irish Chartered Accountants	...	...	70
Incorporated Accountants (Members of the Society of Accountants and Auditors)	...	...	2,097
			<u>6,639</u>

A number of the English and Scottish Chartered Accountants are practising in the British dominions beyond the seas, and an even larger number of Incorporated Accountants, but I have dealt with the figures on the basis of the origin of the respective qualifications. In addition, the Municipal Treasurers and Accountants, a number of whom are also members of our Society, have a separate organisation, which was founded about 1885 and incorporated in 1901. This has a membership of 348, exclusive of students and hon. members. There are also in existence in the United Kingdom the Corporation of Accountants, Lim., of Glasgow, and two Associations in London, incorporated last year with limited liability. Turning to the British dominions outside the United Kingdom, the only bodies of accountants in existence at the time of the Society's incorporation in the year 1885 were the Association of Accountants in Montreal, founded on the 24th July 1880, and the Institute of Chartered Accountants of Ontario, incorporated by special Act of the Legislature on the 1st February 1883. At the present time there are, as far as my knowledge goes, the following organisations:—Six in Canada, eight in Australia and Tasmania, two in New Zealand, and two in South Africa. The above are exclusive of our own Society's branches.

In the United States of America no organisation existed when our Society was formed, but at the present time there are at least twenty Associations of Public Accountants throughout the States, and most of these are affiliated together through the American Association of Public Accountants, which has united into one organisation the public accountants practising in the United States, and brought into communication with one another the several Societies of Certified Public Accountants. The new constitution of the American Association of Public Accountants has resulted in the practical amalgamation therewith of the Federation of Societies of Public Accountants in America, which was responsible for the Congress of Professional Accountants held in 1904, in connection with the World's Fair at St. Louis, at which our Society was represented.

The Duties of Accountants.

Let me just ask the question: What is an accountant, and wherein lie his duties? The definition of an accountant which finds most favour in our own Society is contained in the "Encyclopædia of Accounting," as follows:—"An accountant is a person skilled in accounts, and the term may be used to designate either one who makes the examination and stating of accounts his profession, or an officer in a public office in charge of the accounts."

The duties of accountants are also concisely set forth in an article in the same work, and are described in the following manner:—

- "Auditing and reporting on the accounts of companies, corporations, public bodies, societies, institutions, private firms, and individuals.
- "Drawing up Balance Sheets, states of affairs, schemes of division, and other statements of accounts.
- "Investigating books and accounts, with the view of certifying as to profits, accounting for losses, or tracing defalcations.
- "Reporting on and unravelling accounts under remits from the Courts.
- "Designing systems of bookkeeping and keeping accounts, and advising thereon.
- "Acting as arbitrator or as an expert witness in judicial proceedings, and in arbitrations where matters of accounting are involved.
- "Acting as secretary or accountant of companies or other concerns which have not such officers of their own.
- "Managing as factor, appointed by the Courts, the estates of persons under some legal incapacity, or, as trustee or factor, estates voluntarily placed under an accountant's charge.
- "Winding-up and distributing estates in bankruptcy, insolvency, or liquidation, including estates of persons deceased."

Apart from a little phraseology, more familiar to our Scottish than English or Irish members, I think you will agree with me that the writer has very accurately set forth the principal duties relating to our profession.

The Growth of Professional Work.

You will, no doubt, concur in my view when I place auditing in the forefront of our duties as professional accountants, and no part of the duty of an auditor has grown more rapidly in the last twenty-one years than that in connection with the accounts of public companies. I find that on the 30th April 1885 there were registered in England, Scotland, and Ireland 9,344 companies with a paid-up capital of £494,909,862. On the 30th April 1906 the number of companies had increased to 40,995, and the paid-up capital to £2,003,392,001. These figures are not only marvellous in themselves, but they are interesting in showing that the increase in the number of companies registered has been in about the same proportion as the increase in the number of qualified public accountants. Then, again, although we have no statistics to guide us, I think it may be safely assumed that in the period under review the number of private individuals and firms who have their accounts regularly audited has also increased fourfold.

As to the accounts of public authorities, since the incorporation of our Society the accounts of all county councils, the London borough councils and urban district councils, have been placed under Local Government

audit. On the other hand, the municipal corporations in England and Wales, with a few exceptions, are subject to the provisions of the Municipal Corporations Act of 1882, by which one auditor must be a member of the town council, nominated by the mayor, and two, who cannot be members of the town council, elected by the rate-payers. The excepted corporations are those which have obtained special Acts for the appointment of professional accountants as their auditors, and they are an increasing number. Meeting, as we are here, in the ancient City of London, I ought not to omit to state that the Corporation of the City of London employs several professional accountants in the capacity of auditors. Of course, every member of this Society is aware of the report of the Joint Select Committee on Municipal Trading, which recommends the abolition of the existing systems of audit, and the appointment of auditors being members of this Society or of the Institute of Chartered Accountants in England and Wales.

In the matter of reporting on and unravelling accounts by order of the Courts, I do not think we have much cause for complaint, although accountants in England are not employed on this class of work to the same extent as they are in Scotland.

With regard to designing systems of bookkeeping, and keeping accounts and advising thereon, there have been great strides. While the principles of bookkeeping and accounting can scarcely be said to have altered during the last twenty-one years, many changes and developments in methods have taken place. It was hardly to be expected that principles which had stood for many years the test of practical application would undergo any material change. The one point on which auditors of public companies were threatened with a serious difficulty was in connection with the creation of secret reserves, but a recent decision of the Court has, for the present at least, relieved accountants of any anxiety as to their freedom and independence in relation to accounts where reserves of this character are met with.

As regards methods of accounting, the tendency has been to find means of reducing labour without sacrificing efficiency—an object which is always difficult to attain. Some success in this direction has been achieved, however, by the introduction of what are known as the Loose-leaf Ledger and Card Ledger Systems. It is well known to us that some accountants—and I am among the number—do not regard the new order as being quite so safe as the old—(hear, hear)—but there can be little doubt that whatever shortcomings may exist from the point of view of security and safety—and many who are competent to judge do not admit any shortcomings—a distinct economy of labour is effected, and it is evident that the Loose-leaf Ledgers and the Card Ledgers have come to stay. I will

not attempt to discuss their respective merits. The searching test of practical application will, no doubt, settle this satisfactorily in the years to come.

Another useful development, to some extent associated with these new systems, is the comparatively recent application of accounting to the ascertainment of prime costs. This much-neglected department of accountancy is receiving increased attention year by year, but there is still much to be done towards perfecting the systems which are in force, but this will follow as a matter of course when once manufacturers are sufficiently impressed with the importance of accurate costing as a factor in the successful conduct of their affairs.

There is, perhaps, nothing more striking in relation to accounts than the amount of literature—good, bad, and indifferent—which the last twenty years have produced. The number of useless accountancy books placed upon the market in recent years can only be explained by the fact that everyone who has a tolerable knowledge of double-entry bookkeeping thinks he is capable of writing a book on the subject. But, notwithstanding this plethora of verbiage, many useful books have been written, and the accountant student of to-day has many facilities for acquiring a thorough knowledge of his profession which were not at the disposal of the previous generation.

In the matter of arbitrations, especially in arbitrations where matters of accounting are involved, I have nothing to guide me as to the increase of work, but I hardly think that arbitration, in commercial disputes in England, has found that favour which might be expected, especially in these days, when international arbitration is so much talked about. One interesting experiment has been made—namely, in connection with the London Court of Arbitration, which at one time was partly under the management of the Corporation of the City of London and the London Chamber of Commerce, but which has now been entirely taken over by the latter body. There is a long list of arbitrators connected with the various professions, trades, and businesses carried on in the metropolis, and, by the rules of the Chamber, disputants may select from their official list the names of arbitrators whom they prefer, or they may leave the selection to the Registrar. It is recommended to traders to insert in contracts and agreements the following clause: "All disputes which may arise relating to this contract shall be submitted to arbitration under the rules for the time being of the London Chamber of Arbitration." A proper scale of fees is allowed to the arbitrators and umpires engaged, but the fees of the office of the Chamber are kept very low. I am afraid, however, from all I know in connection with the matter, that the services of the great majority of arbitrators appointed by the Chamber are very seldom called for.

The business of secretary or accountant to companies is

one which has considerably grown. Many capable men in our own profession take appointments, either in the capacity of secretary or accountant. The work of the former is becoming specialised, and the Chartered Institute of Secretaries of Joint Stock Companies and other public bodies has been formed and incorporated, and is a very flourishing body.

The duties of accountants in connection with trusteeships and executorships have largely increased, and it is a satisfactory sign of the times that accounts of this class are being submitted to regular audit.

With regard to the winding-up and distribution of estates in bankruptcy or under deeds of arrangement, and also in connection with the winding-up of companies, the following information will be of interest. In the report of the Inspector-General in Bankruptcy for 1885 it was stated that, for the year ended 31st December 1884, the number of receiving orders was 4,170, which represented less than half of the total for 1883 (in point of numbers the lowest for ten years). The report for the year 1905 is not yet in my hands, but I find that in 1904 the number of receiving orders was 4,546, but for the same year the number of deeds registered under the Deeds of Arrangement Act for 1887 was 4,085. You will remember that in the year 1885 deeds of arrangement were not subject to registration, but, from the returns now available, it would appear that for some years past there has been a steady increase in the number of arrangements outside the Bankruptcy Act; the total number of deeds for 1904 falls only 461 below the number of receiving orders, while the assets, estimated by debtors under deeds of arrangement, is actually larger than the assets for the same year, estimated in proceedings under the Bankruptcy Act. This tends to show that the pendulum has again swung round, and that there is a growing tendency on the part of creditors to avail themselves of the means of winding-up insolvent estates without the intervention of the Court. I do not propose to say more on this matter, as our Vice-President is to give us a paper on the subject to-morrow (Friday). While the Bankruptcy Act of 1883 effected a very important alteration in the law with regard to the winding-up of bankrupts' estates, so the Companies (Winding-up) Act of 1890 also brought about some drastic changes in respect of the compulsory liquidation of companies by order of the Court, but the returns go to show that the powers of the Court are only set in motion in about 6 per cent. of all the cases that go into liquidation, the great majority of companies being wound up voluntarily under the Act of 1862.

It is a somewhat common remark of persons who only have experience of professional accountants in insolvency matters, that times of bad trade are good for us; but this is a great fallacy, as the volume of insolvency business is very

small, as compared with the amount of work which flourishing trade and commerce places in our hands. During the depression—now happily passing away—the staffs of many offices have been reduced, and a number of accountants' clerks have been seeking fresh appointments, but it has not come to my knowledge that any particular firm has made a fortune over insolvency business during the same period.

I think I have placed before you enough information to show that the amount of work at the disposal of professional accountants progresses satisfactorily alongside the growth of the profession itself.

The Position of the Profession.

With regard to the position of the profession in the United Kingdom, the most optimistic person cannot admit that it is satisfactory. As far as possible I intend to avoid controversy, as it is most desirable that our twenty-first celebration should be an occasion of peace and goodwill, and that we should reciprocate the good feeling and cordial wishes shown us by the Chartered and other organised bodies of accountants throughout the Empire—(hear, hear)—but still the fact remains that after fifty years of organisation in Scotland and a quarter of a century in England, the conditions to the public mind do not appear to be far removed from chaos. New associations of accountants are constantly being formed with ever-varying qualifications for membership, and the public are still left without any definite standard by which a professional accountant can be judged. It is quite true that some professional authorities say one thing and some another, but the actual standard for qualification should, in my opinion, and in the opinion of this Society, be regulated by statute. (Applause.) Following this paper a resolution will be moved to this effect by our Secretary.

With regard to the position of our own Society, I dealt with this very fully in my address at the twenty-first annual business meeting held in May last. I was able to point out that our progress is in every way satisfactory, that our examinations continue to attract an increasing number of candidates, and that, with the assistance of our Scottish, Irish, and Colonial Committees, we are setting up one standard of qualification for membership of the Society in the United Kingdom and the Colonies. Our members, generally, are maintaining a strict code of professional morality, and one and all, I believe, aspire to a high standard of professional skill. We endeavour, through these Conferences and through the agency of our District Societies in the provinces, to cultivate a spirit of professional friendliness. Government departments, and public officials with whom we are brought into contact, treat us with respect and consideration, and I believe that Incorporated Accountants, wherever they may be practising, are obtaining by proper professional methods that full share of business which their skill and reputation entitle them to receive. (Hear, hear.)

In concluding my observations, I am mindful of the rapidity with which I have reviewed the position and progress of the profession during the past twenty-one years, but there is a considerable amount of business before us, and it is not desirable, on an occasion like this, that speakers should be shut out on the resolutions which will be submitted to you. (Applause.)

Legislation for the Profession.

Mr. James Martin: In placing before you the motion standing in my name I would like to say that I have observed a criticism that the space of one hour allotted to this subject is not sufficient having regard to its importance. I do not agree with this remark, for the reason that the subject of legislation for our profession has been before our Society for seventeen or eighteen years, and has been discussed at most of the annual meetings of members. I myself have addressed the members upon it in nearly all the principal cities of England, also in Scotland, Ireland, and in some of the Colonies, and whatever views may be held outside the Society, I believe that the motion would have been passed at this Conference practically without discussion. It might be said, "If this is so, why put it on the notice paper?" but it seems to me that if we allowed this important anniversary to pass without once again affirming our views on this vital question to the whole profession, it might with some justice have been said that we were weakening our resolve never to rest until a satisfactory measure for the regulation and control of public accountants had been placed on the Statute Book of the United Kingdom. Before proceeding further, let me take this opportunity of saying how deeply we all appreciate the messages which have just been read from Canada and the United States. The resolution of the Dominion Association of Chartered Accountants, hoping that the continuous efforts made by our Society to secure parliamentary recognition may ere long be crowned with success, is very welcome. As you have heard from our President's paper, the Dominion Association of Chartered Accountants is in no way connected with our Society's organisation, but the Canadian Chartered Accountants, like nearly all qualified accountants in the British dominions beyond the seas, have come to recognise that our policy is pure, disinterested, and in the interests of the whole of the profession within the Empire. I find that the Society's first Bill for the registration of accountants was brought forward in the parliamentary session of 1892—thirteen years ago—and since then several Bills have been before the House of Commons, promoted either by this Society, the English Institute, or the Scottish Chartered bodies. Is it too much to hope that the day is not far distant when, instead of a Bill promoted by either one or the other of these bodies within the United Kingdom, we may have a measure which will represent the united views of all of us—(hear, hear)—

and that the whole profession will be able to put forth their energies to promote a measure for the welfare of all professional accountants. I have only one or two fresh matters to put before you in support of the resolution. Many of you are aware that recently the Incorporated Institute of Accountants of Victoria promoted a petition to the Privy Council for a Charter of Incorporation, which was very influentially supported in the State, and many of our own members in Victoria were in favour of it, while our members in some of the other Australian States were in opposition. According to the report of the Victorian Institute it appears that, even if the petition for a Charter had been quite unopposed, His Majesty would not have been advised to grant it on two grounds, one of which is—and to this I wish to draw your particular attention—that the object desired could be accomplished by Act of Parliament of the Commonwealth or the State. It would therefore appear that there is little or no chance of His Majesty being advised to grant any charters of incorporation to accountants practising outside the United Kingdom. The other matter is that our members in Natal promoted during the last Session a Bill to provide for the registration of accountants in that Colony. This Bill passed the second reading, and was successfully piloted through Committee, but was thrown out on the third reading by a majority of two or three votes. I understand that, throughout, the measure was strongly opposed by the Institute of Accountants in Natal, whose opposition might have been met had we been able to have made some special arrangement with that body similar to that we effected with the old Institute of Accountants and Auditors in the South African Republic. Be that as it may, I do not believe that in a fair fight the Institute of Accountants in Natal is powerful enough to overthrow our own interests in that Colony, but in addition to the local opposition we had other influences to contend with which contributed to the unfortunate result. We are still hopeful of getting our measure through, which is in the care of Mr. W. J. O'Brien of Pietermaritzburg, who has worked strenuously in the name and on behalf of our Society. I purposely have not dealt with the Transvaal Ordinance, as this motion is to be seconded by Mr. Alex. Aiken, of Johannesburg, who is not only the ex-President of our Transvaal branch, but who also represents the Transvaal Society of Accountants, which is the statutory body in that Colony, having charge of the Register of Accountants. I beg to move, in accordance with the terms of notice, "That in the opinion of this Conference the regulation and control of public accountants by statute of the Imperial and Colonial Parliaments is an urgent need throughout the British dominions, in the interests alike of the profession and the public, and this Conference supports the Council of the Society of Accountants and Auditors, and the Colonial Committees of the Society, in their efforts to promote legislation." (Applause.)

Mr. Alex. Aiken, J.P. (Johannesburg): Mr. President and gentlemen, I have the honour to second this motion. I wish, however, in the first place to take advantage of this opportunity to express the felicitations of the bodies that have been good enough to ask me to represent them here to-day—that is, the statutory body of the Transvaal, of the Council of which I am a member, namely, the Transvaal branch of our own Society, and also the South African Committee of our Society—and to express on their behalf their gratitude for the invitation you have sent them to attend this meeting, and their real regret that the distance between here and South Africa is so great that it is impossible for them to be present. I want also to thank you for the kind invitation you have extended to me, and I appreciate the honour you have done me in asking me to second this important motion, for in my opinion it is the only step which accountants as a profession can take to make any real further progress in their professional position. (Hear, hear.) I cannot understand having to argue the case for this motion before a meeting of accountants. I could understand objections on the part of such members of the public as might conceivably think a door of refuge was being closed in their face when they had failed at everything else. I could also conceive that statesmen of a *laissez faire* order might think that any interference, no matter how slight, with the liberty of the public to assume any designation they chose, no matter at what public expense, might sooner or later result in dry rot setting in in the profession—I say I could understand such statesmen thinking that that is possible. At the same time I am happy to say that such stalwart adherence to this principle of relying on the survival of the fittest is gone, for it is not only the survival of the fittest amongst the accountancy profession, but I should think that it means the survival of the fittest amongst their clients. So far as the Transvaal Society of Accountants is concerned—a statutory body—I had the privilege of addressing you in May last upon the results of the establishment of the register there, and I think that these results are not only wholly good but offer the best encouragement to you to proceed and do likewise here, and not only here, but in every corner of His Majesty's dominions. (Hear, hear.) In South Africa I have never come across one of my friends, whether he is a Chartered Accountant or an Incorporated Accountant, or a member of one of the Australian qualified bodies, who has not looked to public registration as being not only good in itself, but the only good that we could see to benefit either the profession or the public. (Hear, hear.) I thought that coming here I should find similar conditions, and it has astonished me considerably to be told that such is not quite the case. It is not unheard of, I am told, for some accountants to think that they are better as they are than by going for registration. I have tried hard to imagine what their reasons can be; I have failed to get any very good reasons from them.

The only thing I could imagine—the only thing suggested really—is that by registration and by bringing on the register, as you must do at the beginning, all men practising, no matter whether they have any qualifications or none, they bestow on these men an ability to compete with capable men which they do not possess to-day. Now, that is very short-sighted according to my view of the case. (Hear, hear.) You have to-day to face that competition, and if you do not fear it without a register you have no more cause to fear it with one. (Hear, hear.) Further, the register puts an absolute stop to any increase in such, one might say, unqualified competition, and you will, after you have got your register once established, at all events have no further influx of candidates for the profession who cannot show that they have the requisite ability. (Hear, hear.) If I may be permitted, I should like simply to refer you to what I said about the results of our Transvaal action, which was reported in the *Incorporated Accountants' Journal*, which I read before I came here to-day, so that I should not repeat myself. I cannot add anything to those remarks. They are, I think, words of good promise for you all and of encouragement to go on with the movement which you have for the last seventeen or eighteen years consistently promoted. Anything short of statutory regulation for the whole profession—not for one section of it—is futile (hear, hear)—futile, unless where it can be of any use it is absolutely selfish; and that is why I hope that nothing short of going the whole way, of regulating the whole of the profession, and not regulating any particular body or any particular group of bodies, will ever be listened to, whether by the Legislature here or by the profession at large here or elsewhere. (Applause.)

Mr. Charles H. Wilson, J.P. (Leeds): Mr. President, I had not intended taking part in this discussion, but the bashfulness of some of our members apparently precludes them from making a start. I should like to say, in addition to what Mr. Martin has advanced, that on one occasion there was a joint Bill proposed by the Councils of the Institute and of the Society. Now, I think it must be satisfactory to everyone of us that our policy—the policy of registration—holds the field. You remember the joint Bill to which I refer. It was promoted by the two Councils, and the intention was to constitute the whole of us Chartered Accountants. That met with opposition, both in the Institute and in this Society, and was not proceeded with; but it did a great thing—it settled in the minds of most of us the question of any superiority or inferiority. Now let me say I have no jealousy of the older Institute. I want to give it its proper place in the history of accountancy. It is older than our Society, it has a greater membership, and it has a great prestige. I do not want to take from it a single jot. But this joint Bill did do away with one of the questions that we were constantly having to deal with, especially outside London—probably inside as well—that there was a superiority in the one body

not to be attained by the other body. I therefore welcomed that Bill, although it was not converted later into an Act, as settling practically that part of our controversy. I believe we can say to-day without fear of contradiction that whilst we are celebrating our twenty-first birthday there is a better feeling as between the Institute and the Society than probably there has ever been since either was instituted. (Hear, hear.) And I am sure that every member of your Council, and probably every member of the Society, appreciates that fact. We hope that it may long continue, and that before very long there will be something done which will bring to an end all this question of setting up further unauthorised bodies. To the multiplication of these bodies at the moment there appears to be no end, and they are not in anybody's interest; they are not even in the best interests of the persons themselves who join these bodies. At any rate, it is perfectly certain, I think, that when anything is done we shall have to make up our minds, and the members of the sister Institute will have also to make up their minds, that the gates will be thrown wide open, that everybody in the kingdom who can demonstrate that he has any claim to be called a practising accountant must, of necessity, be brought under the new law whenever it is passed, whether it be for registration or for whatever purpose it may be. Now, why are we for registration? Among other things we know that the moment a register is set up, if there is any necessity for it at all there will be a purifying process immediately set in operation. If anyone transgresses he goes off the register; if anyone fails to pay twenty shillings in the pound he goes off the register. I could give you in addition a number of other reasons why from the moment of a register being set up these various processes must go on. All these make for the interest of the survival of the fittest. Those who are well qualified will stand, and those who are not will of necessity fall. Those societies which have life enough, like this Society, and, if you like, the Institute, will stand. Those that are merely set up for the purpose of being looked at, and who have no real life, must fall. The sooner this question is tackled the better it will be in the interests of the profession and in the interests of the public. I, personally, am exceedingly glad to be able to place on record my opinion that there is this improved feeling as between members of the Institute and members of our Society. (Applause.)

Mr. F. Woolley (Southampton): Mr. President and gentlemen, I hesitated considerably to be one of the first to take part in this discussion, as I suppose I am one of the youngest members of the Society of Accountants and Auditors. At the same time I think it is probably felt generally that there is some desire to obtain the opinion of younger members as well as the opinion of those who have had a very long experience in the profession on this particular question of registration for the profession. (Hear,

hear.) I feel that if the advantages to the public of legislation for the profession are more clearly understood and appreciated it will help considerably in pushing forward the matter. Of course, I think it is true to say that the great bulk of professional accountants appreciate even in this country the advantages which registration or legislation would bring to them, and if their knowledge of the advantage to themselves can be backed up by a fuller appreciation on the part of the public as to the advantages which this step would bring to the public, then I consider the matter will be very much helped forward. We all know that to practising accountants there are very large interests committed. Accountants are called upon from time to time to perform duties which have a very important bearing and effect upon the interests of large bodies of the public. Accountants are also called upon to fill official positions. I think I may say with perfect safety that an unqualified accountant is a distinct danger to the commercial interests of the country. The productions of unqualified men have doubtless come before the notice of many members of this conference. They would be at times extremely amusing if it were not for the fact that their efforts are fraught frequently with very serious possibilities. Take the consequences, for instance, of an erroneous or false certificate of profits stated in the prospectus of a company going to the public for subscriptions of capital. I myself know personally of a case where the gross profits were certified as net profits in a prospectus. One would think that the public would have sufficient discretion to withhold their subscriptions; but, no, the public came forward and subscribed the amount required. I think that gives a slight indication that at any rate the public as a whole is not in a full position to be able to judge of the qualifications of an accountant. I would suggest that another reason for legislation for the profession is that the employment of an accountant is often of an indirect character. For instance, a man who is carrying on a business for himself and employs an accountant, either for the purpose of supervising his books and accounts, or for an audit of his books and accounts pure and simple, may or may not have a fair idea of the qualifications of the man he employs. But take the case of the shareholders of a limited company who appoint an auditor. The appointment is in their hands, but the shareholders have little or no opportunity of being able to judge of the qualifications of their man. It is therefore necessary that as the law places upon shareholders the responsibility of appointing the auditors to companies, the law should also provide reasonable safeguards, ensuring that the persons elected have certain guarantees, which they can produce, of reliability, of fitness, and of character. (Hear, hear.) We therefore feel that it is necessary that the public should be protected against the dangers of men who merely ape the accountant, but are not, in fact, accountants. It is perhaps hardly necessary to say that

the desire is not to create a close profession, or in any sense a vested interest. I was extremely glad that Mr. Martin referred to the disinterested character of the policy adopted by this Society. This Society has sought for legislation, not for itself to the exclusion of other bodies, but has sought for legislation, I believe, in the interests of the profession generally—(hear, hear)—and that, to my mind, is a great compliment to the policy adopted by the Council from year to year; it is appreciated. There are some difficulties in the way, and it is a thousand pities that those difficulties appear to be, not as regards the principle of the thing, but as regards details. All practising accountants, I believe, are satisfied as to the advantages and desirability of legislation, and therefore the principle is approved; but they are not satisfied apparently as to the details or the form which that legislation should take. The members of this Society, as far as one can judge, are somewhat in the dark as to the exact reasons which tell in this direction, and it has occurred to me to ask the question as to whether it would not be desirable on some occasions to perhaps call the members of the Society together in committee to consider the whole point, when the position could be frankly put before the members generally. It is doubtless true that some sacrifice would be necessary, but the sacrifice in any case would be only of a very temporary character. The permanent advantage obtained would be enormous. (Hear, hear.) I consider that the Council of the Society of Incorporated Accountants is to be commended and congratulated upon keeping this question so much alive and bringing it forward from time to time, and I am quite certain of this, that the support of the great bulk of the members is behind the Council in the matter, and that they will give them every support which they require. (Applause.)

Mr. C. H. Nelson (Liverpool): Mr. President and gentlemen, I believe that in this matter of statutory registration we have reached that tide in the history of the Society which, if taken at the flood, will lead on to fortune—(hear, hear)—and I believe it for this reason: The point, I believe, that we have to argue to-day is not as to the reasonableness and necessity of statutory registration, but rather as to its possibility. Now, I submit that what in the past has hindered our progress in this scheme of the Society has been that we have not had the right atmosphere in which to work. We all know to-day that in all our legislative efforts the whole of our success depends to a very large extent upon the atmosphere. When the Bill of 1893 was introduced by the Institute, or our own Bill in 1894, or the Institute's Bill again in 1897, or the final Bill which our Society introduced in 1900, we had a bad atmosphere, because we were at variance with the Institute, or they were at variance with us—perhaps I should put it in that way. But to-day I submit that the

atmosphere is entirely changed, and because it has changed I hold that unless we act soon the ebb will set in and our opportunity will pass. (Hear, hear.) Now, I submit that we have evidence of this change of atmosphere in many directions. To begin with, you had last year the remarkable effort of the President of the Liverpool Society of Chartered Accountants, Mr. White, who, I understand, will be with us at our banquet to-morrow night. You had the effort of Mr. White—a successful effort—to get this Society in Liverpool, and through them the Council of the Institute in London, to go in for statutory recognition, and with the facts which he was able to put before them he was able to carry a resolution, and to carry it unanimously, of the Liverpool Chartered men in favour of the Society's policy. That evidences a change of atmosphere in Liverpool, which has always been the conservative spot in the accountancy world. (Laughter.) I do not use the word politically, I need hardly say. Then we have further evidence in a letter which I happen to have upon me, but which is private, from an ex-President of the Institute of Chartered Accountants, in which he says, referring to our conference here to-day:—"I am quite in hopes that this "conference will lead to a real and pleasant understanding, "and with every wish for its success, I remain, &c." Now, those of you who have borne the heat and burden of the day in the Society's history, and for whom I as a younger member of the Council have the utmost respect, must feel cheered when they receive such a message from an ex-President of the Institute. They have lived through many cold and chilly days in which no such messages ever reached them; and therefore I submit that the time has come when something should be done in order that this question of statutory registration may again be brought into the realm of practical politics. (Applause.)

Mr. Harry Wilson (London): I just want to say that the remark which Mr. Woolley made in his speech reminded me of an instance I had during the last month or two as to the class of men who can in the City of London and up and down the country advertise themselves as professional accountants. A few years ago I was connected with a very large bankruptcy in London, and the result was that five men were sentenced at the Old Bailey to terms of imprisonment—three for five years and two for seven years. Those sentences have expired, and only a few weeks ago a card was placed in my hand showing that two of those men were advertising themselves as accountants practising in the City of London. The other point I was going to mention had reference to a case where I was appointed trustee under a deed of assignment. The man in this instance was a provincial accountant, and in a certain trade he advertised himself for a time very largely. I was appointed trustee in the bankruptcy, and I found at once that as trustee under this

deed he had realised about £300 worth of assets. When I was appointed the first thing I did was to go down to this provincial city, where I wasted an afternoon, and was coming back without finding anything, until I remembered someone in the place from whom I obtained certain information. The result was that I found this man at an office for which he paid 1s. 3d. a week—I had these things verified at the time—and afterwards I ascertained his private house, and about 8 o'clock at night I went round and found it was a house for which he paid two shillings a week. The result was that with reference to those assets which he had realised at £300 we had a private examination, and then we dropped the matter.

Mr. W. J. Smith (London): Mr. President and gentlemen, as one of those already referred to who have borne the burden and heat of the day, and, perhaps, have not very much longer to bear it in comparison with some of the younger members, I should like just to make my voice heard at this meeting. When Mr. Woolley was speaking he asked whether the Council did not think it advisable that the whole Society should be called in committee on purpose to advise upon these matters. I am afraid that the old proverb "In the multitude of counsellors there is wisdom" would hardly be justified in this case. I am afraid it would result in a great deal of confusion, and especially from the fact that a large number of the members, not having had these matters constantly before them as the Council have had, could not take into consideration the various points, and sometimes quite delicate points, which have to be considered when making efforts to secure legislation for the profession. (Hear, hear.) I do not think there is very much to fear about the number of accountants who would come on to the register—I mean to say apart from the recognised Societies—and if I could I would stop a large number of them, for I am afraid that we should get upon the register just a few who are not worthy of the name of professional accountants. But we have to put up with it, for the simple reason that we can get no legislation unless we do admit them. However, as far as our present experience goes, these are not the men who attract the ear of the public. You take up any matter of importance in which accountants are connected, and I think you invariably find that they are members of either one Society or the other, and the fact that increasing anxiety is shown to enrol themselves on our list is another proof of how well the status of the Society is known, and of how much they know the public desire that a man should only be employed who possesses sufficient qualifications. (Applause.)

Mr. Harry L. Price (Manchester): Mr. President and gentlemen, I almost fear that upon this particular topic I have both written and talked myself dry, but I cannot resist the opportunity of just endeavouring to add one

word on the question of general principles affecting legislation for the profession. It does seem to me that the very fact that the public have got into the habit—and we ought to be proud of the fact—of placing confidence in the word and in the certificate of a duly qualified accountant ought to lead us more than anything else to seek to ensure that that confidence shall not be misplaced—(hear, hear)—and it is that endeavour which leads us to seek for the profession some form of statutory recognition and disciplinary conduct. The reason why it has not been hitherto obtained appears to me to arise in the fact that there is on the part of some of our own members, as well as on the part of members of the Institute, a kind of miserable fear that they will, in consenting to it, in some way divide up their reputation. I characterise that as a miserable fear, because, after all, in the history of accountancy it has always been the personal equation which counted. (Hear, hear.) I care not a fig what letters a man may add to his name as a designation of qualification if he possess not that qualification and if he be not a man of honour. (Hear, hear.) After all, the individual is all that counts, and I think we cannot too often remember that; and although there may be, if you will, a momentary watering down, as some have described it, in the end good will prevail. To us who are older in the profession than some of the members who have spoken this morning, it cannot matter very much whether we get statutory recognition or not; our practice will be little affected, whatever happens. But whatever may happen, let us remember you cannot chop wood without having chips, and if we have of necessity to admit men whom we do not think quite as clever fellows as ourselves—(laughter)—in half a generation that will have remedied itself, and the public, whom we serve, will undoubtedly have been benefited. (Applause.)

Mr. W. Claridge, M.A. (Bradford): Mr. President and gentlemen, the question that we have to discuss is so simple that it requires very few words from anyone to commend it to such a Society as this. At the same time I should like to speak for a few moments on this side on the protection to the public. We have—I think no one will dispute it—as a Society for a good many years now been trying to do all we could to raise the tone and to guarantee the qualifications of members of the profession. And this has not been merely in our own interests; it has been in the interests of commerce at large and of the public in general. If we got registered, at any rate the public would have some means of judging of the qualifications of men who hold themselves out as accountants. Only this last week I have sent to our Secretary the remarkable report of a Society which has been holding meetings in the North of England. This Society is a colourable imitation of our own. It goes to the extent even of having a secretary whose name is James Martin, and it parades its secretary

in such a manner that although I read that account very carefully I could easily have been deceived, and thought we were having our annual meeting at Leeds instead of in London.

Mr. G. Palmer: Mr. President and gentlemen, it is with great pleasure that I support this motion. It has been my lot to get the ears of certain members of Parliament on this question for some years, and I have never lost an opportunity, although I have not made it known generally to the Society, of pushing forward our interests. But I am met with this response in nearly every case: "How can we as members of Parliament help your Society towards legislation when you gentlemen, as a large body of accountants, are divided among yourselves?" (Hear, hear.)

Mr. H. E. Russell (Liverpool): I should like just to emphasise one point that has struck me in this discussion this morning. I have been very pleased to hear the declarations of the different members on, if I may call it, the open door which has to be sustained in this agitation for legislation, because one recognises that that is the only chance in these democratic days, with a big democratic Government, of getting any interest whatever taken in our actions. The moment we go to Parliament and ask for parliamentary powers we will, in the minds of a good many of them, raise a distrust, a fear that we are applying for protection for our own profession, and I should say that that is the greatest difficulty we have—to absolutely convince our representatives in Parliament, and Parliament as a whole, that we are not doing that, and that we are acting in the best interests of the public. We have had a number of instances cited this morning of the dangers of unqualified men getting on the register; but as a young member—the elderly members declare that they are not in any way afraid of such cases altering their practice—I would simply say I consider that in a year or two all these things would find their level, and the interests of the profession generally be greatly improved. I have always felt that the whole subject must be dealt with on as broad a basis as possible.

Mr. E. Carr: Mr. President and gentlemen, I came here with the intention of not uttering a single syllable, but there are two points which I should like to remind you of. Statutory recognition by registration is the one great thing that is necessary, and, I may say, the ideal course to pursue in order to accomplish two most desirable ends—namely, the interest of the trading public and the raising of the status of our profession, which I am sure you will agree with me requires raising. As regards any arguments in favour of statutory recognition or registration, I do not think one need say a word about that; there can be but two opinions upon that, and I think we can even afford to be dogmatic upon it, although my friend Mr. Price, of

course, will object to the word "dogmatic." There was a little circumstance which occurred this morning while I was walking to the office that really relates very much to this. I was overtaken by a gentleman, a member of an eminent firm of Chartered Accountants, who shall be nameless, and he referred to our conference. He said, "I hope something will be accomplished; it is about time the hatchet was buried." He added, "I quite agree that the course you have been advocating for some years past is the one course to which there can be no objection whatever, and I think it is quite time, if we cannot amalgamate, that we should come to some agreement as to a working arrangement." (Applause.)

The President: I call upon Mr. Martin to reply.

Mr. Martin: Mr. President and gentlemen, I think you will all agree with me that I have very little, if anything, to reply to; but be that as it may, I think we shall all also agree that there is no lack of oratorical ability in our Society. And this brings me to the speech of my friend Mr. Woolley, to which we were all so glad to listen. (Hear, hear.) He made a suggestion that we should call the members of the Society together to discuss details. Well, I am a great deal too old in diplomacy to fall into that trap. (Laughter.) If you want to accomplish anything you never think in public—(hear, hear)—and it has always been the rule of our Council—and I have been your Secretary for over twenty years—that the Council trusts its committees, and the committees trust their Secretary. (Applause.) We sometimes have big Council meetings; we sometimes have small committee meetings, but very often some of our most important achievements have been accomplished by committees of one. (Hear, hear, and laughter.) Now, I do not think you are dissatisfied, and we hope to go on on the same lines—(renewed laughter)—taking advantage of every point as it arises, and giving nothing away that we can possibly prevent. (Applause.)

The resolution was then put to the meeting and carried unanimously.

Municipal Trading.

Mr. Charles H. Wilson: Mr. President and gentlemen, I have very great pleasure in proposing "That this Society of Incorporated Accountants expresses much regret that effect has not been given to the unanimous recommendations of the Joint Select Committee of both Houses of Parliament on Municipal Trading, as regards the appointment of professional auditors of Municipal Accounts." I think it would be well just to run briefly through the recommendations of that Joint Committee, because, although you have all read them, I take it, in the *Journal*, one is apt very quickly to forget these things if they are not happening in connection with our everyday existence.

I turn first to Clause 7 of the report, which says:—"What ever view may be taken of the proper limits, if any, which can be set to municipal trading, it is clearly important that, wherever it exists, ratepayers should be not less fully and continuously informed of the success or failure of each undertaking than if they were shareholders in an ordinary trading company." I think we may assume for our purposes that municipal trading exists wherever there is a municipality. Then the Committee go on to say:—"In a large number of cases this is undoubtedly done. But there is in some instances evidence to a contrary effect, and in view of the ever-increasing number and magnitude of municipal undertakings, it is most desirable that a high and uniform standard of account-keeping should prevail throughout the country. The Committee are doubtful whether it would be possible to prescribe a standard form of keeping accounts for all municipal or other local authorities, having regard to the varying conditions existing in different districts. But they recommend that the Local Government Departments should invite the Institute of Chartered Accountants, the Incorporated Society of Accountants and Auditors, and the Institute of Municipal Treasurers and Accountants of England and Wales, and the Society of Accountants in Edinburgh, and the Scottish Institute of Accountants, Glasgow, to confer and report upon the matter." I had the honour—and I considered it to be a very great honour—of giving evidence for this Society before the recent Committee in favour of the standardisation of accounts, and I have every reason to believe, and almost dare to predict, that as a result of that Committee of Inquiry there will be standardisation set up. Then the report goes on to say:—"The Committee have directed full attention to the question of audit," which is the point before us this morning. "The Committee recommend that a uniform system of audit should be applied to all the major local authorities—viz.: the councils of counties, cities, towns, burghs, and of urban districts. At present municipal corporations in England and Wales, with a few exceptions, are only subject as regards audit to the provisions of the Municipal Corporations Act, 1882, by which one auditor, who must be a member of the town council, is nominated by the mayor, and two, who cannot be members of the town council, are elected by the ratepayers." That, of course, has reference to the system of elective auditors. The Committee go on to condemn that very strongly. They say:—"The evidence shows that no effective system of audit is thus supplied. The elective auditors are poorly paid, or are unpaid altogether, little interest is taken in their election, and although in some cases they are able to lay a finger on a particular irregularity, it is not clear that they could not make the same discovery in the capacity of active ratepayers. No

"complete or continuous audit is ever attempted by them. "All county councils, the London borough councils, and "urban district councils are subject to the Local Government Board audit. This audit is carried out by district "auditors, who as a rule are not accountants, and are not, "in the opinion of the Committee, properly qualified to "discharge the duties which should devolve upon them. "By special local Acts the Corporations of Tunbridge "Wells, Bournemouth, and Southend-on-Sea must, and the "Corporation of Folkestone may, adopt the Local Government Board system of audit. The duties of the auditors "seem to be practically confined to certification of figures, "and to the noting of illegal items of expenditure. To "apply this system of audit to municipal corporations "would arouse strenuous opposition from them, and the "course may be considered impracticable; but in addition "to this the fact that district auditors are not accountants "seems to unfit them as a class for the continuous and "complicated task of auditing the accounts of what are "really great commercial businesses. The Committee "accordingly recommend that—(a) The existing systems of "audit applicable to corporations, county councils, and "urban district councils in England and Wales be "abolished. (b) Auditors, being members of the Institute "of Chartered Accountants, or of the Incorporated Society "of Accountants and Auditors, should be appointed by the "three classes of local authorities just mentioned"—that one clause alone is a very strong justification for your existence as a body of Incorporated Accountants—" (c) In "every case the appointment should be subject to the "approval of the Local Government Board, after hearing "any objections made by ratepayers, and the auditor, who "should hold office for a term not exceeding five years, "should be eligible for re-appointment and should not be "dismissed by the local authority without the sanction of "the Board. (d) In the event of any disagreement between "the local authority and the auditor as to his remuneration, "the Local Government Board should have power to "determine the matter. (e) The Scots practice of appointing auditors from a distance, in preference to local men, "to audit the accounts of small burghs should in similar "cases be adopted in England. The Committee are of "opinion that it should be made clear by statute or "regulation that the duties of those entrusted with the "audit of local accounts are not confined to mere certification of figures. They therefore further recommend "that—(a) The auditor should have the right of access to "all such papers, books, accounts, vouchers, sanctions for "loans, and so forth, as are necessary for his examination "and certificate. (b) He should be entitled to require "from officers of the authority such information and "explanation as may be necessary for the performance of "his duties. (c) He should certify—(i.) that he has found

"the accounts in order, or otherwise, as the case may be; " (ii.) that separate accounts of all trading undertakings "have been kept, and that every charge which each ought "to bear has been duly debited; (iii.) that in his opinion "the accounts issued present a true and correct view of "the transactions and results of trading (if any) for the "period under investigation; (iv.) that due provision has "been made out of revenue for the repayment of loans, that "all items of receipts and expenditure and all known "liabilities have been brought into account, and that the "value of all assets has in all cases been fairly stated. "Auditors should be required to express an opinion upon "the necessity of reserve funds, of amounts set aside to "meet depreciation and obsolescence of plant, in addition "to the statutory sinking funds, and of the adequacy of "such amounts. The auditor should also be required to "present a report to the local authority. Such report "should include observations upon any matters as to which "he has not been satisfied, or which in his judgment called "for special notice, particularly with regard to the value "of any assets taken into account. The local authority "should forward to the Local Government Board both the "detailed accounts and the report of the auditor made "upon them. It should be the duty of the auditor to report "independently to the Board any case in which an "authority declines to carry out any recommendation "made by him. A printed copy of the accounts, with the "certificate and report of the auditor thereon, should be "supplied by the local authority to any ratepayer at a "reasonable charge. After careful consideration the Committee are of opinion that in view of the thoroughness of "the proposed audit, powers of surcharge and disallowance could be altogether dispensed with in the case of the "major local authorities." If that is dispensed with the one supposed safeguard in connection with district auditors goes by the board. When you know that out of hundreds of surcharges in every year practically the whole of them are remitted, it is more an imaginary than a real safeguard. Then the Committee go on to say:—"Those powers could "not, it is believed, be applied to municipal corporations, "in view of the strong objection expressed by them; and "it is doubted whether their retention in the case of other "authorities would compensate for the loss of uniformity "which would result. The power of disallowance, applying as it does only to illegal expenditure, and not to "unwise undertakings and enterprises, does not afford any "real safeguard to the ratepayers whose interests are "affected. With a continuous, vigilant, and thoroughly "efficient system of inspection and audit, the surest "guarantee to the ratepayers against extravagance is to be "found in the deterrent effect of public exposure, in "addition to the existing legal remedies. The dispensing "power possessed by the Local Government Board under

"the Local Authorities (Expenses) Act, 1887, throws on the department an amount of work often out of proportion to the importance of the issue involved. The Committee suggest that in view of the large changes recommended by them it might be advisable to create a new body, in the form of a Board of Commissioners of Local Audit, in some respects analogous to the Railway Commission. This body could be entrusted with the powers which the Committee recommend in their report should be vested in the Local Government Board. The Committee recommend that if in the case of Scotland it is thought desirable that the existing statutory audit of accounts of county and borough councils should be maintained, at any rate the system of audit for the five large cities, which is at present regulated by private Acts, should be assimilated to that which is recommended for the major local authorities in England." I do not know of any report issued by any Committee which goes more thoroughly to the root of the matter than this one dealing with municipal auditors and their duties and suggested powers. It is one that every business man can thoroughly and readily endorse. It has been brought in by men of various positions, all eminently qualified to pronounce an opinion on the subject. Let me say at once that I have no quarrel or grievance against the Local Government Board, but, on the contrary, I have a great respect for this department. I believe it does an immense work for the benefit of the country. It ought, however, to be content to direct, and not actually to carry out, the work of municipalities. In this respect I want to draw a distinction between the profession of auditors, if you like, and the actual furnishing of men to do the audit themselves. I know that there is a real feeling on the part of the officials in favour of maintaining the position and prerogative of the Local Government Board—a perfectly natural feeling, and one, again, that I have no quarrel with—but if they were to do as is suggested by this report—divest themselves from this question of carrying out the audit on the part of their own department—in my opinion our respect for them would materially increase, and their position would thereby be immensely strengthened. We cannot have any objection to the Local Government Board supervising the reports that auditors may send in; we cannot have any objection to their holding inquiries as to what money has to be spent upon them, nor eventually saying whether moneys have been properly spent for the purpose for which they were borrowed. In all these respects I hold that the Government Department is moving on right lines; but when we know, as we do from the Committee's report, that the district auditors are not accountants—there are only one or two exceptions, I think, out of the whole body—and that thereby they do not consider themselves fitted to discharge the duties they are called upon to carry out, we ought not

to be content to let this matter go on without a protest. If it goes on, grave difficulties are liable to arise. There can be no question about it. Anybody who has studied this matter must agree with me that the system of elective auditors has absolutely broken down. It is inefficient; it is dangerous. Men can be elected by a very small vote indeed—men who are neither accountants nor who have any acquaintance with accounts. I know several such cases. Men go there merely for the purpose of trying, in the first instance, to get a fee when they have previously had nothing to do, and in some instances trying to obtain notoriety by publishing pamphlets with regard to expenses of deputations and other things that, however different opinions are maintained by the persons running them, are absolutely necessary if good work is to be done by the representatives of municipalities. I say, therefore, the longer this matter is put off the greater will be the difficulties in front of us all, and at any time there may be something serious happen through an inefficient audit in connection with one of our great municipalities. I do not need to detail to you at any great length the process set up by the Act of 1882, as I daresay you are all as familiar with it as I am; but I have no hesitation in declaring it to be a farce; it ought to be no longer continued. I had some qualms of conscience in advocating that this report should be carried out, because I thought it might displace a large body of men who are at the present time doing a certain work, and that there would be no work consequently found for them. Upon inquiries, however, I found that the department was overworked, and that if the whole of the district auditors were removed from their particular work to-morrow there would be still plenty for them to do in other directions, and therefore my last idea of not carrying out this report immediately disappeared. I was very much struck by a remark made by Mr. Nelson. He did not press it home quite as far as I expected he would have done, but he said there was a change of atmosphere, and I thought he was going to trench on politics. There is, I think, a great change of atmosphere in that direction politically. We have a very strong Liberal Government. (Hear, hear, and laughter.) I might qualify that and say, in point of numbers. My friend does not say "hear, hear" to that. (Renewed laughter.) But I am not joking on this matter. Because there is a strong Liberal Government, even in point of numbers, it has an opportunity to settle this matter which it ought not to miss. I believe that the Right Hon. John Burns is favourable to the municipalities as a whole; it remains to be seen whether he or the officials of the department will carry their views, but I certainly think there is a disposition now on the part of the department to bring about presently such a change as will give us all satisfaction. The sooner they do it the better for themselves and their own credit, and the better for all con-

cerned; and although I express in this resolution my regret that the matter has been postponed, I must as a fair man give the department time to make the necessary preparations for change, as I know that these big things cannot be altered in a moment. I want to say that in all fairness to the department. I hope, at any rate, that they will not lose any time in carrying out the recommendations of this splendid Committee. (Applause.)

Mr. F. Walmsley (Manchester): Mr. President and gentlemen, I have wondered how it is that I came to be associated with Mr. Wilson on this subject, and then I remembered that two or three years ago Mr. Wilson and I met on a municipal corporation subject, and we were rather strongly at variance, and I thought perhaps the Committee considered it would be generous to put us together again, and to give us a subject upon which we could meet upon a common platform, especially in view of the fact that our President has ordained that, at all events to-day, there shall be peace and goodwill amongst accountants. But, again, I am in a difficulty, because I believe the regulations of to-day provide that whilst the mover of the resolution has the right of reply the seconder has not, and therefore I take it that I shall have to be very careful about what I say. I may say at once that on this question I am not what is called a "whole-hogger." Whilst I agree in the main with the resolution, I believe that it is a thorny path. It is a very delicate question, and we shall have to tread warily. There is one feature of it which rather strikes one—that is, that it savours a good deal of "shop." We are asking the Legislature to throw absolutely into the hands of professional accountants a large volume of business which is now enjoyed by another set of individuals altogether. But we have a good example in that, I find, because I believe in the coming conference in the United States of America one of the *pièces de résistance* in their programme is "accountants' fees," and therefore I say we are following an example worthy to be followed in that respect. There is one feature of this question which we have to bear in mind in recommending legislation upon it. The Local Government Board audit has been in existence for a very long period; it came into existence at a time when there was practically no such thing as what is called "Trading Departments," and therefore we may assume that at that time the business was of very much less importance, and involved very much less commercial accountancy experience than it does to-day. Having regard to the fact that there is now a total sum of something like four hundred million sterling largely invested in the trading concerns of corporations, I think it is one in our favour to contend that at all events the accounts of corporations, involving as they do this large sum of money, ought to be in the hands, more than they are now, of gentlemen like yourselves, and the other bodies of accountants, who all life

long have been experienced and versed in all the intricacies of purely commercial undertakings. The times have changed in that respect, and therefore I say that is a strong reason why the recommendations of the Committee should be adopted at the earliest possible moment. But there is another aspect of the question. You will have noticed that the trend of the times in commercial administration is in the direction more and more of the influence and control of what I will call—and I do not use the term offensively—the Socialistic element. The working classes of to-day are becoming more and more members of local corporations and local authorities, and their policy and views are more and more entering into the control and administration of corporation funds; and I say this, that owing to the incidence of taxation and rating, which I am not going into to-day, there is an anomaly there, because the great body of ratepayers under the system of compounding do not pay their rates directly, and therefore they do not feel the increase of rating that direct ratepayers do. I merely mention that to show there is a strong reason, in my judgment, why there should be some outside control as far as possible of the spending of great corporations; and I say, for one, that while I desire that professional audit shall prevail in corporations and in local authorities I do not see my way altogether to consent to be deprived of some amount of control from the Local Government Board as it exists to-day. Before a corporation can spend money, what has it to do? It has to go to the Local Government Board—for what? For the authority, for the consent, to spend this capital money. The Local Government Board, as you know, orders an inquiry; and under that inquiry, if they find the expenditure is warranted, then they give the necessary sanction, or Parliament gives its Act. Under those conditions I think there is justice in the position, and to some extent, while professional audit should prevail as regards the certificate of accuracy and all the details and so on, there is some justice and reasonableness in the public interest and in the interests of those who supply this money that the Local Government Board, who are responsible to the nation, ought to preserve in some form or another a certain amount of control with regard to local authorities and local funds. I am not going to say much more, because time is going on; but, as I have said already, while I believe the time is coming when Government will, and Government ought in some way to carry out the recommendations of this Committee, I think there will be some way out of it whereby either in surcharge or in some sort of control the Local Government audit or supervision may be maintained, and I think that maintenance will be a sheet anchor in the interests of public economy and in the interests of better control of corporation spending than has been the case in the past. Some of you know

that I have had nine years experience as a member of the Council, and I have also been concerned in corporation audits, and therefore I am speaking with some knowledge of the subject, and with a sincere desire that whatever safeguards we have we will take care that those safeguards are not sacrificed in the direction of finding more work for professional accountants. Now, I will conclude by expressing the hope that this powerful Government, to which Mr. Wilson very modestly referred, with its zeal for work, may turn its attention to this amongst other schemes of money spending and long-awaited-for domestic legislation. I hope that before many years are over many gentlemen like yourselves, and others who are not here to-day, may be enjoying fees and emoluments from appointments as auditors to corporations. When that comes about I hope, although my friend Mr. Wilson may not perhaps agree with me, that those gentlemen will take care, in auditing and reporting upon those accounts, that after providing for interest and sinking fund there will be due provision for depreciation—(laughter)—and I am very glad to see that since our friend Mr. Wilson gave such an effect to his views in Liverpool, and so powerfully advocated those views, several corporations have been good enough, influenced no doubt by his opposition, to say that Mr. Wilson was wrong and I was right, and they have adopted the reserve fund. (Laughter.) I have great pleasure in seconding the resolution.

Mr. J. M. Fells (London): Mr. President and gentlemen, as one who gave a good deal of attention to the proceedings of the Joint Select Committee on Municipal Trading some three years ago, and who was also a witness before that Committee, I would like to point out to the seconder of this resolution that in the report of the Committee there is nothing whatever that really derogates from the power of the Local Government Board—(hear, hear)—in fact, if the report does anything, it endeavours to tune up the Local Government Board, and to give it greater strength and power than it has yet had. For instance, it formulates the idea that a court analogous to the Court of the Railway Commission should be formed, in order to deal with questions of local government in the same way as the Railway Commission deals with questions affecting railways that are referred to it by the Board of Trade. Therefore I think Mr. Walmsley will see that if he advocates the report, even as a "whole-hogger," he will practically advocate greater power to the Local Government Board than they already possess. There is one other point which I would like to mention, and that is that this resolution, as drawn, seems to me rather to read like a requiem:—"That this Society expresses regret that effect has not been given," &c. Well, we have heard both the mover and the seconder of the resolution expressing their hope that effect will yet be given to that report, and

I would suggest that their views and our views would be made more clear if they inserted the word "yet" between the words "not" and "been," because I still have hope that some effect may be given to the recommendations of the Committee. I have lately seen a letter written by instruction of the Prime Minister dealing with this question. In that letter the Prime Minister seems to me to suggest that legislation would be needed in order to carry these resolutions into effect. Well, if legislation is needed, why should we not have legislation? (Hear, hear.) This is not a political or partisan question. (Hear, hear.) Any measure based upon the recommendations of that Committee ought practically to pass as under the general term, "Legislation by consent." The recommendations are the recommendations of representatives of every section of the House of Commons, and, so far as there are two sections or more than two sections in the House of Lords, by every section in the House of Lords. Therefore, that which the Parliamentary Committee has unanimously found to be desirable surely ought to have some weight with any Government, and also with the Local Government Board and others who are directly interested. If legislation has to be obtained, then I think we ought to use our best endeavours to get legislation; we ought to point out that this is not a political or partisan question. As everyone here well knows, the only way to get legislation is to make clear to individual members of the House of Commons what you want and what you intend to have; and if you approach this question in that spirit, and not merely with regard to what Mr. Walmsley has termed the individual or professional question here, but the whole question as recommended by that Committee—if you impress the members of the House of Commons in that way, and in that spirit, then I hope it will be even more apparent than it is to-day that the insertion of the word "yet" is a desirable and practical solution of the difficulty. (Applause.)

The President: I am pleased to be able to announce that both Mr. Wilson and Mr. Walmsley have consented to adopt the suggestion of Mr. Fells, and insert the word "yet" in the resolution.

Mr. Martin Wood (Newport): Mr. President and gentlemen, I am one of those despised beings, elective auditors, and I thought I might possibly help this debate by speaking from experience. The law theoretically, it seems to me, is good so far as it goes. The auditor is elected by the ratepayers—that is to say, by the shareholders—and the appeal is to the ratepayers. That is what the recommendations of the Commission amount to. But our position is exceedingly unsatisfactory. First of all, there is no qualification specified. In my own experience, I was at one time in competition with a carpenter; and with the present labour movement in the country we are liable at any time to have a

labour auditor forced upon a constituency. Our treatment also is not good. We are, at best, treated with a sort of good-natured toleration. Often a professional auditor is appointed over our heads, and the work of the elective auditor is looked upon as one of supererogation. Our tenure of office is quite unstable: the election has to take place every year, and I think it is evident that that is a very unsatisfactory condition of things. Our duties, again, are entirely undefined; we are appointed, and the scope of our audit is left to our own imagination. In Newport—the borough for which I have the honour to be auditor—we have, by a sort of natural process, advanced a little. We are elected by the ratepayers, and they have now come to the conclusion that it is preferable to appoint professional men. They have therefore appointed two professional accountants as their auditors. We are approved by the Council, who, seeing that we are professional men, treat us, perhaps, with a little—though not much—more of that good-natured toleration of which I have spoken. The recommendation of the Commission seems to me to be somewhat indefinite in the matter of our appointment. Perhaps Mr. Wilson will be able to elucidate this matter a little when he rises to reply. The recommendation mentions auditors from outside the borough or city, but it is not quite clear, from the wording of it, whether that refers only to the small towns and boroughs. It seems to me that cities like Manchester, Leeds, or Cardiff, would object very much to have an accountant appointed from a distance to audit their accounts. They would say “we have professional men in our own towns who are acquainted with our needs, and we know our wants and our feelings in the matter, and we should appoint our own auditor.” I can quite understand that in the case of small boroughs, where a Chartered or Incorporated Accountant of experience might not be easily found, it would be wise to allow of the appointment of an auditor from a distance; but I think the larger boroughs would most strenuously oppose the idea of appointing an auditor from another town, and I feel sure that the country accountants would object very much to the principle. I think that as accountants we have too much of the domination of the big London firms. I speak without any disrespect to our London friends, but I think that one of the troubles and difficulties of provincial accountants has been the competition and domination of the large London firms. Our aim, I think, as accountants should be, first of all, that the qualification for the position should be more strictly defined; and the recommendations of the Commission are in the right direction in that matter. The second point that we should have in view is to avoid a Local Government Board audit, which, as the proposer of the resolution has pointed out, is not satisfactory. It tends, in my opinion, rather too much towards red-tapeism. There was a case reported in the papers some time ago, where a Local

Government Board auditor spent six hours, and took up the time of the local authority, in deciding how a halfpenny should be stated in the accounts before him. We do not want to fetter our corporations with all these petty details and this hair-splitting more than is necessary. Then we find that, in places, lawyers or legal men are appointed in preference to accountants. If I might, without any disrespect, define the difference between law and accountancy I should say that a lawyer is more taken up with stating his own—a partisan—side of the case without regard to whether it is right or wrong; while an accountant has the broader object in view of getting at the exact principle of the thing and stating the common-sense view of it, and that is what we want in this matter of our local authorities. Mr. Walmesley, in putting in a word for the Local Government auditor, referred to matters of incidence of taxation, assessment, and rating, but those matters have nothing whatever, it seems to me, to do with the audit. The Local Government Board have to do with those questions now. They have also to do with the inquiry as to loans and their supervision, as well as the supervision of sinking funds; and the Local Government Board will have quite as much, and indeed more to do in the new state of affairs than they have had in the old. Then we want our duties and powers more clearly defined. A complete audit is an immense thing, and a partial audit is very unsatisfactory and dangerous. At present we have just to exercise our own imagination in the matter, and that is considerably hampered by objection on the part of the local authorities: sometimes, the law having, in some cases, stepped in to prevent a complete audit. Then we want to have our tenure of office fixed for a longer period than at present. The work of a municipal borough now, with all its trading undertakings, is an immense matter; and in order to get a grip of such a concern I think one year is not sufficient, and I think the recommendation of the Commission that the term should be extended to five years is a good one. (Applause.)

Mr. H. J. Burgess (London): I rise to say how much I am in sympathy with the motion submitted by Mr. Wilson, and how much I wish the Local Government Board would appoint professional auditors. I understood the last speaker to say he holds office as an elective auditor. Like him, and partly at the wish of our Council, I took up a certain office, and I have been acting as elective auditor for an important borough, not very far from here, for the past three years. That borough has its own electric lighting undertaking, workmen's dwellings and allotments, and it trades in numerous ways, having many undertakings and a very large rateable value. I do not like the idea of having to contest an election each year, and therefore I think it is very necessary that professional accountants should be appointed.

Mr. T. Keens: Mr. President and gentlemen, I have

seen something of the finances of local bodies from both sides. I do not want to trouble you with our woes as elective auditors; but I and a Chartered Accountant, who was my chief competitor in the town in which I live, took up the matter as a protest pure and simple, and, on a vacancy occurring, we boldly came out and claimed the seat for efficiency, and, after a strenuous fight, won. That had nothing, probably, to do with our capacity to do the work, but with the extent to which we were known in that particular neighbourhood; and that brings me to the point I want to make. What is the reason why no more progress has been made with this question? The reasons, it seems to me, are twofold. On the one side, there is in most public bodies an opinion that accountants are people who object *in toto* to every phase of municipal trading; and while that idea is prevalent in the minds of the people generally who occupy seats on local bodies, so long will there be a sort of tacit objection to the audit scheme which is now here detailed. The second reason why, it seems to me, no more progress has been made is because we, as a body of professional men, take far too little interest in public matters. Speaking generally, I may say that, so far as I can recollect, in all the large towns which adjoin the one in which I live I do not know of a single one in which any practising accountant takes any public office whatever. There are several other practising accountants who should be qualified to be on the County Council, of which I am a member, covering the county of Bedfordshire, but there is not one on it besides myself. I have searched the list for Hertfordshire, and can find no practising accountant on that body. I have also searched the lists of the Town Councils in the neighbourhood, and can find no evidence of any practising accountant being on those bodies; and, as far as I am aware, with the exception of Mr. Claridge, not a single member of this body of accountants has ever fought a seat for Parliament. Some of you are, no doubt, building up very magnificent practices, and heaping up splendid incomes; but, at the same time, unless a certain amount of time is to be given to public work, and unless we are prepared to take our fair share in the public life of this country as a profession, we shall never obtain at the hands of the community generally the amount of recognition which we imagine, at any rate, the profession deserves. I may say that I speak on this subject with some pleasure to-day, because I have for the past three years regularly supported, sometimes by speaking and sometimes silently, a resolution to the same effect at the meetings of the Associated Chambers of Commerce. This resolution, as you are aware, was first contested, but it has since passed into the realm of starred resolutions, which means that it is simply proposed and formally seconded, and no one is allowed to speak on the question unless he rises to move an amend-

ment; and for years the meetings have been absolutely unanimous on the subject. It remains for us to see what pressure we can exercise on members of Parliament, who have finally to deal with the question. The real question is this, that while there is this amount of prejudice existing against a professional body—existing under an entire misapprehension—you can hardly expect members of Parliament to risk the chance of a quarrel with a large number of their constituents for people who have never done a stroke to help them to get their seats, or have never taken any interest in local affairs. I have very much pleasure in supporting the resolution.

Mr. M. J. Dunsford: Mr. President and gentlemen, I propose to take this opportunity of relating an experience which I have had within the past twelve months, and which, I think, will be of some interest to this meeting. Last year a member of our Society, who was one of the elective auditors for Exeter, died, and what took place emphasises the fact that politics constitute the real trouble which causes the evil we are now discussing. I was urged to accept nomination at the election in March last, and there was also nominated by one political party a land agent, who had great favour with the party, but who, besides being quite inexperienced as an accountant, was stone deaf. Usually about 1,000 voters in all have gone to the poll at such an election there, but on this occasion, towards the evening, 1,000 of the labouring classes were brought to the poll by the party referred to, who were determined to get this man into office, and carried their object in that way. When this elective auditor started his work he was so appalled with the duties that lay before him—he was nearly seventy years of age—that he utterly collapsed, and died within six months. There has been something said as to the advisability of appointing local men. It occurs to me that there are certain advantages to be gained by the appointment of local men, but I do not think that is a very strong point. I think that if we had to move about in other towns it would have advantages also.

Mr. Warren (Haverfordwest): Mr. President and gentlemen, I think the support of this motion should be as broad and representative as possible, and I should like, as a municipal official, to support it. I simply wish to submit this one point. I do not think it is possible to put before gentlemen of so much intelligence anything new on the subject; but I think this point ought to be brought forward—that to-day there are so many qualified accountants among municipal officials that it becomes absolutely necessary that the complicated accounts prepared and kept by them should be audited by men equally skilful and expert in the profession. Someone complained that no real progress has been made in this matter. Well, it appears to me you will not succeed in making any real

progress until you convince the Right Hon. John Burns that this is a burning question. (Laughter.)

Mr. C. H. Wilson: Mr. President, I must express my regret that Mr. Walmsley has not yet got over the drubbing I was obliged to give him at Liverpool—(laughter)—and tell him I do not admit for a moment that I am in the wrong, or that my opinions have undergone the slightest change. Neither have the facts. (Laughter.) As to his hesitation about our seemingly asking for business, surely we need not trouble any longer about that when this is a strong recommendation of a Parliamentary Committee that the Chartered and Incorporated Accountants should be put upon this work. I think that has gone by. We need not hesitate about that now. As to trading concerns, I should have made more of that question, but the report is distinctly in favour of a continuous, vigilant, and efficient audit, and not merely in favour of the certification of the figures and the looking for likely errors that, generally speaking, the district auditors confine themselves to; the report certainly recommends that some further control should be given to the Local Government Board, and I agree with regard to this. I do not object to supervision in the slightest degree, but I do object, and will continually object, to their actually doing the work. As to this question of depreciation, I have never been against depreciation, but if anyone takes the trouble to read my evidence, published in August 1903, they will see I was in favour of depreciation to cover certain eventualities. I do not need to repeat the particular evidence; it covers rather a lot of ground. I am not against depreciation, but I put the sinking fund in the first place and depreciation in the second. I might have talked a long time about having been Lord Mayor's auditor for several years, but did not want to go into that side of the question, except in so far as it has absolutely demonstrated to me the farce of the whole thing. The duties are restricted by various decisions of Judges, and the fees are restricted also, and I am very glad indeed that that report is in favour of sweeping all this system away. But I do not want you to go away assuming that no real progress has been made. One of the principal paragraphs of the report having reference to the standardisation of accounts has been dealt with. In two or three weeks from now you will probably have the report of that Committee, and it seems to me that the Local Government Board, in approving of this question of standardisation of accounts, has cleared one important matter away before proceeding to abdicate in favour of professional accountants for municipal and county council audits. I think a great step has been taken by that department. As to whether we agree with the particular way they set up the committee or not does not matter; I am satisfied the recommendations will be found in the right direction. In several

cities professional accountants are appointed apart from the system of elective auditors, but if they have not the powers to make these appointments are they not acting *ultra vires*? In some cases they have special local powers to make appointments, but in many cases they have not. With regard to the question of men from a distance, I find the report specially limits such appointments to small boroughs. Beyond that I do not think I need go, except to say I have been very much pleased with the discussion which has taken place on the resolution. (Applause.)

The motion was carried *nem. con.*

The President: I understand that Mr. Woodroffe is present, and would like to say a few words.

Mr. Woodroffe: Mr. President and gentlemen, I felt I should not be doing my duty to the Ontario Institute of Chartered Accountants, whose representative I am in this country, if I did not address a few words to you. At this time last year I was in Toronto, and was treated remarkably well, and entertained by the Institute of Chartered Accountants, not as an individual, but as a Fellow of the Incorporated Accountants. (Applause.) I think to a great extent this was caused by the visit of Mr. Martin as a delegate to the St. Louis Congress in his capacity as a committee of one. (Laughter.) I can assure you that his visit has been a matter of great gratification to Canadian Britishers of influence in the Councils of the leading Institutes; and it was expressed to me by more than one gentleman of influence in Canada that they hoped that an era of closer attachment would set in, if not preferential treatment. I may say that I found at that time that the proposed formation of a Committee of Incorporated Accountants composed of gentlemen who are undoubtedly the leading Chartered Accountants in Canada, had been taken thoroughly in the right spirit. The colonial is a very approachable man, and we had a very approachable delegate to meet them. I think I ought to emphasise my remarks by reading a few words from the letters of some prominent Canadian accountants. One is Mr. John Hide, first President of the Dominion Association of Chartered Accountants, a body whose Charter is enacted by the Senate, and is really enacted by his Majesty, with the consent and advice of both the Senate and the House of Commons of Canada, and that enactment is signed by the Governor-General in Council. I should think this is the greatest legislative acknowledgment of public accountancy that has been conferred, with the exception of the Transvaal Colony. Mr. Hide writes:—"I hope and trust you will all have a pleasant time at the conference and banquet, and my very great regret is that I cannot be with you. I am leaving for Winnipeg early in October." The Secretary of the Institute of Chartered Accountants of Ontario, which is also a body incorporated by Act of the

Legislature of the Province of Ontario, writes sending me the resolution which has already been read.

The President: I have one more duty to perform before this sitting of the conference is concluded, and it is a very pleasing one. I have to present three certificates of merit to successful competitors. The first is to Mr. Albert Frederick Saunders, who obtained the first certificate of merit at the May examination. I would like to mention that Mr. Saunders also stands a chance of winning the gold medal awarded to the best candidate for the year. (Applause.)

Mr. Saunders was then handed his certificate by the President, who next presented to Mr. Tom Wilkinson Wainhouse the second certificate of merit, remarking that Mr. Wainhouse was clerk to Mr. J. Norman Lister, 21A Silver Street, Halifax, and adding that, as other Presidents had before pointed out, Yorkshire was always to the fore. He also handed the fifth certificate of merit to Mr. Waller Rattenbury, of the Borough Treasurer's Office, Town Hall, West Ham.

This concluded the business of the sitting.

Second Day's Proceedings.

Bankruptcy Reform.

Mr. Harry L. Price opened the proceedings by reading the following paper:—

The establishment of a system which deals satisfactorily with the problem of commercial insolvency would appear to be a kind of Sisyphean task, to the performance of which successive Governments have set themselves with but indifferent success. During the last century the law was altered in 1825, 1831, 1842, 1844, 1849, 1861, 1869, 1883, and 1890. "All this legislation," said Lord Cairns, when Lord Chancellor, "oscillated very violently between two extremes. "At one time the theory has been to leave the administration of bankrupt estates to the creditors, and to constitute "them the sole judges as to the manner in which the proceedings should be conducted. At another time, the "favourite idea has been to take everything out of the "hands of the creditors, and to hand them over to Courts "and officials." The present method is a composite of both these theories. By the recent appointment of the Bankruptcy Law Amendment Committee, however, the Legislature is apparently about to make still another effort to roll the burden a little further up the hill of difficulty.

Until the report of that Committee is presented, and its recommendations take practical shape, it is only possible to speculate as to the precise direction in which reform will be attempted. As, however, the terms of reference to the Committee are public property, and as the trend of the

inquiry has elicited various expressions of opinion from many who are qualified by experience to form them, it is not only permissible, but desirable, that a body of accountants in conference should hold clear views upon a subject with which, directly and indirectly, they are brought into daily contact. It is sometimes suggested that the fact of accountants and solicitors being personally and profitably interested in insolvency administration, tends to warp their judgment, and to discount their opinions upon any attempted reform. I hope and think that such a view is not seriously held. But whether it is or not, we can, at least, speak with knowledge, and, in recording our honest convictions, may contribute something towards the solution of one of our most difficult national problems.

State Interference.

It is surprising to find how little has been written or spoken in the direction of laying down broadly the basic principles of State interference between debtors and creditors. We all know that, theoretically, of course, no limit can be set to the right of the State to interfere. In its omnipotent and undisputed supremacy it may do as it will. But in practice we are daily settling boundaries, within which private freedom and State action shall mutually limit each other. Intervention in order to defend one set of interests which are attacked against the aggression of others, or to defend the State against all, is an ordinary and approved experience. What is not quite so certain is the equitable right of the State to interfere with the mutual acts of willing parties, where any indirect mischief wrought by such acts is less important than are the benefits derived from them.

After all, the State, as society-organised, has grown up, and exists merely as a means of individual convenience—it should, in fact, in its ideal form, be the sum and expression of all that makes for individual happiness and well-being—and it is questionable whether it has any moral functions outside the protection, first of the individual, and next of the community, against acts which are an invasion of its rights. This is effected either by active and forcible intervention or by passive regulation, just as the interests of those who are mostly directly concerned require. Bentham ("Principles of Morals and Legislation") divides the consequences of a mischievous Act into two parts, (a) the primary or original mischief sustained by individuals, and (b) the secondary or derivative mischief, which extends itself over the whole community. He alleges "that it is in "vain to talk of the interests of the community without "understanding what is the interest of the individual." In some cases, no determinate person may be injured, but the State deems it needful to interfere because the act is anti-social, while in other instances the mischief of an act affects the individual directly, and touches the community only remotely. That insolvency is mischievous and harmful is

obvious, but it is equally clear that the interest of creditors is that which is primarily affected by it, and which, therefore, calls first for consideration. If, concurrently, it is practicable for the State to subserve the wider or more general interests of the community, there is not only no reason against it, but every reason why it should be attempted. To what extent, however, interference is justifiable, which may result in loss and delay to a particular section of the community, in order to effect some more or less doubtful benefit to the community at large, is a debatable question.

Subject to such reform as is necessary to strengthen its weak points, the present method of permitting creditors to arrange with their debtors privately if they wish, and, if they do not, to call in the aid of statutory procedure, is a reasonable working arrangement, and any attempt materially to modify its conveniences is not likely to be regarded favourably by the commercial public. Perhaps it belongs to our racial and traditional instinct of freedom that creditors resent an unvarying application of the inelastic and restraining methods of official administration, which tends always, and everywhere, to become slow and expensive and bureaucratic. They feel, rightly or wrongly, that their personal interest in insolvency administration is more direct, and of more real importance, than the regulation by the State of commercial morality. However desirable the latter may be as an abstract ideal, the concrete loss affects them more intimately, and they feel, very naturally, that the State should content itself with providing machinery which it should be left for them to set in motion, or that, alternatively and apart altogether from the realisation and distribution of assets, any injuries done to the community should be punished at the instance and expense of the public. In other words, creditors claim what has been defined by an American Judge as "the right to be let alone."

Interests Involved.

I have had occasion previously to point out that, in dealing with the subject of insolvency, three interests arise for consideration, (1) the right of creditors, who are the direct and immediate losers, to secure a speedy and economical administration of their debtors' estates, and to be provided with some legal machinery, by means of which they may compass the punishment of wrong-doing on the part of their debtors, (2) the necessity for providing a sanctuary to which insolvents may resort when being subjected to legal pressure from which they cannot otherwise escape, and (3) the postulated right of the State to intervene where the private conduct of insolvents has offended against public morality. The main difficulty in all bankruptcy legislation up to now has been in deciding the order of priority in which these interests shall be considered. It is not that creditors are regardless of the consequences to themselves and to the community of recklessness and criminality in their debtors,

or that the State is unmindful of the financial results to creditors, but that, in order of importance, each seeks to invert the conception of the other, and, as a result, we have had constantly repeated the alternation of policies indicated by successive Bankruptcy Acts.

Principles of the Previous Act.

The tendency of the Act of 1869, as you all know, was in the direction of permitting creditors, as the persons most interested, to be the judges of their debtors' conduct. That Act admittedly gave rise to grave abuses and to considerable laxity on the part of creditors, but the principle on which it was grounded, viz., that the interest of the particular body of creditors upon each estate came first, and the communal interest second—important always, but still second—would appear to have been sound, and it is a matter for regret that, when fresh legislation was embarked upon in 1883, no attempt was made to retain the broad outline of that Act whilst amending its acknowledged defects. The initial procedure under that measure, in cases of liquidation by arrangement, was more rapid than the obtaining of a receiving order under the present Act, and if the scale of legal charges had been revised, a proper system of audit of trustees' accounts and a check upon their fees instituted, and steps taken to prevent the improper giving and use of proxies, there was no reason why the 1869 Act, thus amended, should not have been a useful and profitable measure. For it must be remembered that, side by side with the old procedure for private arrangement by direct bargain between debtors and creditors, there also existed the more drastic bankruptcy system for dealing with debtors and their estates where creditors were not content to settle privately.

Principles of Present Act.

Under the Act of 1883, however, the basis of legislation was changed, and the State again took on the duty of dealing with the conduct of debtors in all matters coming before the Courts. Even then, however, it was only contemplated that this should be subordinated to the establishment of competent administrative machinery, to gather in and distribute the bankrupt's assets. According to Mr. Chamberlain, who, as the then President of the Board of Trade, initiated the measure, the two main objects of the Act were "First, 'the honest administration of bankrupt estates; and, 'secondly, following the idea that prevention is better than 'cure, to do something to improve the general tone of commercial morality. In other words, as far as possible to 'protect the salvage, and diminish the number of wrecks.'" But in the course of the administration and amendment of bankruptcy procedure, we have gone further than this, and are tending gradually to make the matter of the debtor's conduct, and the extent of his wrong-doing, the test of the creditor's rights. Said the Inspector-General, in one of his annual reports, "Where the debtor has been guilty of mis- 'conduct, or where there are doubtful transactions which

"require independent investigation, it is not consistent with the principles on which the bankruptcy law is founded, that a majority of the creditors should have the power of hushing matters up." And again, in 1891, "a distinctive feature of the Bankruptcy Act, 1883, is that it treats the conduct of the debtor as a matter of public concern, which may not be condoned either by the private friendship or *personal interest of his creditors*." But if that procedure results in loss or prejudice to creditors, as it frequently does, and unless the corresponding benefit to the community at large can be shown to be of equal or greater value, and to stand out clearly and unmistakably, which it does not, it is open to question whether "the principles on which the bankruptcy law is founded" are principles of real utility or the converse.

Comparison of Methods.

Under the Act of 1869, creditors might compound with their debtor as they would, or liquidate his estate without official intervention, or make him bankrupt as now. By the Act of 1890 this freedom of choice is denied them. They are actually prevented from accepting any less composition than 7s. 6d. in the £, unless the arranging debtor is guiltless of all such offences as would, in case of bankruptcy, operate to cause the refusal or suspension of his discharge. And, inasmuch as there is probably not 1 per cent. of debtors who are in that direction free of offence (for in fifteen years in only four cases out of about 65,000 have compositions of less than 7s. 6d. in the £ been sanctioned by the Courts under this provision), this means that, although creditors may be offered twice as much as they can look to receive from a forced realisation of the assets, and though the bankruptcy of their debtors spells loss to them in any case, they are further penalised for their debtors' wrong-doing. And it is the feeling of the inequity of this which resulted, after the passing of the 1883 Act, in creditors and debtors seeking to come to terms outside the provisions of the bankruptcy law, and *pro tanto* to revive the permissive portions of the Act which it had repealed.

Needed Reforms in Bankruptcy.

Twenty-two years' experience of the present Act, and eighteen years of the Deeds of Arrangement Act, go to prove that some reform is called for in both methods of procedure. Each has its own special features and advantages, and any attempt to assimilate the two methods will, as I hope to show, be likely to result in drawbacks, for which there is no certain adequate compensation. On the one hand is the severer and more costly scheme, and on the other the cheaper, and, if you will, more lenient plan. To make bankruptcy readily available in those cases to which it is more particularly suited, it is necessary that there should be a reduction in its cost, and a quickening of its methods. Nothing could be more likely than this to result in the attainment of that great desideratum of insolvency adminis-

tration, viz., that in all cases of wrong-doing reference should be had to the Court for investigation and penalty; but that where public interests are not seriously affected, the immediate sufferers should be left free to do as they will. Lord Westbury, the eminent Judge, deemed it desirable "to render bankruptcy as facile and cheap as politicians and philanthropists desire to make food and light and air," and if it is to be of real benefit, it certainly should be possible readily and cheaply to avail of it.

If this form of procedure is called for on grounds of public policy, the question of making it pay ought surely to be the last consideration. As a rule, the worse the estate the more the need for bankruptcy, and to require from a petitioning creditor a £5 stamp on his petition, and a £5 deposit to the Official Receiver (and particularly so where debtors have wilfully and recklessly dissipated all their assets), frequently deters creditors from taking desirable proceedings. So also the cost of an official shorthand note in the majority of cases could be dispensed with. The Official Receiver, as a general rule, knows in advance which are the colourless cases, and need only take a note in the others. The period between the filing and hearing of the petition also requires to be reduced. At present it happens, not infrequently, that a creditor knows that his debtor is wasting his estate, and can do nothing to prevent it. One reason for this lies in the necessity for providing that unprincipled persons may not unduly rush forward proceedings. But the establishment of proper safeguards to prevent this is surely not beyond the wit of our legislators. Similarly, when once the receiving order is made, there is no real necessity to delay the holding of the meeting of creditors. The act fixes the time of meeting—"as soon as may be after the making of the receiving order"—but this is modified in the Schedule by imposing a limit of fourteen days (inclusive of seven days' notice) which, in too many cases, is adopted as the standard. The reason for this is that the Official Receiver endeavours, with the notice of meeting, to send out a copy summary of the statement of affairs. But the issue of this statement might in each case be dispensed with for the time being, and a list of creditors required from the debtor within forty-eight hours, and a meeting summoned within seven days after the receiving order, when, doubtless, it would be possible to submit the complete accounts.

Bankrupt's Discharge.

The second clause of the terms of reference to the Committee deals with the subject of the debtor's discharge, and seeks to elicit opinions on the question whether it should be made more stringent, or otherwise altered or modified. In the quaint phrase of Blackstone, "To the misfortunes of debtors the law has given a compassionate remedy, but denied it to their faults." It is obviously desirable that a broad distinction should be maintained

between misfortune and misconduct. The principle, however, that one who has been irretrievably ruined should be released from his debts, is a first principle of humanity, and since it has been possible to follow the operations of the present Act, doubts have sprung up, in more than one important direction, as to the wisdom and advantage of the present method of withholding a bankrupt's discharge. It is felt that if a debtor is guilty of offence, he should by all means be punished, but that the punishment should be swift and sharp, not lingering, and that where there is no reasonable prospect of a debtor discharging his liabilities, his position as a member of society should be redeemed as soon as may be. To make an insolvent legally incapable of acquiring or holding property is to treat him as a social outlaw, and that is neither good for him nor for society. Nor does the present system deal out even-handed justice. We punish one man with months or years of commercial disability for having committed some offence within four months of his bankruptcy, and let him go unpunished for the same offence, or, worse, whose wrong was committed earlier.

There are, as nearly as can be estimated, at the present moment 50,000 undischarged bankrupts in this country, and yet for the year ended 31st December 1904 (the last year for which statistics have been issued) the total liabilities for all insolvencies were greater than they have been for any one of the ten previous years—so that, instead of all this suspension of discharge effecting any serious and cumulative improvement, matters are pretty much as they were.

Necessity for Amendment.

In any case, however, in the interests of the public, either bankrupts must be discharged much more quickly than at present, or the right of a trustee in a subsequent bankruptcy to take possession of after-acquired property to the exclusion of new creditors must be repealed. No effective method exists of acquainting the commercial public of the whereabouts and trading title of undischarged bankrupts, nor would it be practicable to devise one which would not be either too costly or fraught with almost as many dangers as it is designed to cure. If bankrupts are to be kept undischarged, their possibilities for mischief should be reduced to a minimum. Thus, if each of them was compelled, under penalty of imprisonment, when again starting business to state clearly upon every document issued by him and connected, even remotely, with the obtaining of credit, that he was an undischarged bankrupt, then creditors would have full notice; and if, in the absence of such written notice, a debtor obtained any credit *whatever* without announcing his condition, he should be similarly punished. I have never been able to understand why the law should permit an undischarged bankrupt to obtain credit up to £19 19s. with impunity, and subject him to legal penalties if he makes it £20. The principle should surely go to the root of the whole matter, and if these men are to move about in the community like

commercial lepers, the law which leaves them in this condition should compel them to give public notice that they are unclean.

Seeing, therefore, that the advantages of keeping a debtor undischarged are not very obvious, and his capacity for mischief is so familiar, I lean to the conviction that there should be a periodic consideration of all cases, say, half-yearly, and an effort made, as soon as may be, to rehabilitate the debtors as responsible citizens. Only an average of about 15 per cent. of bankrupts apply for their discharge each year, and it is to be presumed that of the remaining 85 per cent. some feel no inconvenience from their undischarged condition (in which case the withholding of it is ineffective), whilst others are driven by necessity to all kinds of subterfuges, which result in still further loss to the community.

Extension of Punitive Powers.

In addition, it would, in my view, be useful to clothe the Judges having bankruptcy jurisdiction with powers to punish summarily, by imprisonment, those who are proved to have committed such offences as would, under the present Act, disentitle a bankrupt to his discharge. Particularly should this apply to the omission to keep such records of trading as would enable accurate accounts to be prepared. However roughly they may be kept, it should be imposed upon every person seeking credit to make a complete record of all receipts and payments of cash, all goods bought (invoices being preserved), all goods sold, and a detailed inventory of stock at least once a year. I am satisfied that substantial fraud frequently lies behind the non-keeping of books, and if the bankruptcy Judges were armed with plenary powers to inflict imprisonment for the omission, the result would, I feel sure, prove both interesting and profitable. A bankrupt at present may be imprisoned for the concealment of assets, and it is not unreasonable to ask for similar penalties for a neglect which makes concealment abundantly possible.

In France losses by gambling, either in stocks or goods, or otherwise, excessive personal or household expenses, and the omission to keep books, or the irregular keeping of them, are punished by imprisonment, and somewhat similar provisions occur in the German commercial code. A modification of this principle adapted to our freer conditions would be beneficial, and if such punishment were made largely to take the place of the withholding of a bankrupt's discharge, it would not be open to the present objection that the punishment, whilst administering discipline to offenders, also leaves the community open to serious injury.

Registration of Mortgages, &c.

Another subject calling for consideration is the question whether it should not be a requirement that all hire-purchase agreements, all mortgages of real estate, all loans of cash to a trader for purposes of his business, or which claim to rank against his business assets, and, perhaps, all assignments of book debts should not be registered. The absence of

publicity in such transactions tends to invest the debtor with a show of wealth which he does not, in fact, possess. It may be that such publication, in certain special cases, would create hardships, but, in the main, would lead to a much more accurate estimation of the position of every person seeking credit, and thus advance the public good.

Private Arrangements.

It is, perhaps, more in connection with private arrangements, however, than in any other direction, that the trading public will be interested to learn the findings of the Committee; because, though creditors value, upon occasion, the facilities which the Bankruptcy Act affords them for dealing with cases of criminal recklessness, they look upon the method of private arrangement as a place apart, into which they may retire with their more honest debtor, and adjust their differences with mutual advantage and without the intrusion of official curiosity. The terms in which this subject is referred for consideration to the Committee are as follows:—

"Whether the provisions of the law relating to voluntary arrangements and compositions by insolvent debtors and their creditors should be amended, so as to place the debtor and the trustee under any such arrangement or composition, and the terms and conditions of the arrangement or composition, more under control, and provide for official audits of the trustee's accounts and official control over the assets in his hands."

At the present time the law permits a discretion both to debtors and creditors, inasmuch as neither need, of necessity, petition the Court in bankruptcy, and, provided they can come to an understanding outside, the official attitude has hitherto been one of passive assent, subject to the requirement of certain conditions for statistical and other purposes.

Official View of Private Arrangements.

In its first report on the Act of 1883, the Board of Trade enunciated the view that the bankruptcy laws were originally introduced "for the relief of insolvent debtors," and expressed the opinion that "where the necessary relief can be obtained by mutual arrangement, there seems to be no reason why the aid of these laws should not be dispensed with." In 1891, having then had seven years' experience of the dual method, the then Inspector-General, in his annual report for the previous year, wrote thus: "Many critics of the Bankruptcy Act appear to consider that the best test of its efficiency is to be found in the extent to which it succeeds in bringing within its influence all the failures throughout the country. I do not think that that view is well-founded. On the contrary, I believe that these two methods of administration ought to be regarded as complementary of each other." This exactly reflects the view of the large majority of traders throughout the country, as well as of the legal and accountancy professions, whose clients the creditors are.

Their Maintenance Desirable.

And, with proper safeguards for the prevention of abuses, there does not appear to be any valid reason why this combination of methods should not continue. Either private arrangements reflect the wishes of creditors, or they do not; and the fact that nearly 4,000 estates are so dealt with annually, with gross liabilities approximating five millions sterling and assets of two-and-a-half millions, is some evidence that they do so, and unless the State is prepared to say that the desires of creditors in relation to insolvent estates are to be disregarded, or, at least, subordinated, to the consideration of laches in conduct, the amplest facilities ought to be continued to creditors of arranging privately with their debtors.

A pseudo-sanction was given to private arrangements on the passing of the Deeds of Arrangement Act, 1887, and later by the provisions of Section 25 of the Bankruptcy Act, 1890, and, in view of the serious personal interests involved, creditors are entitled to look to the Legislature to make provision that this method shall, without being hemmed in and hampered by a mass of official machinery, be made as efficient as possible.

Moral Effect of Bankruptcy on such Arrangements.

The estimated ultimate loss to creditors on an average of seventeen years is, under bankruptcy procedure, 81 per cent. of the total liabilities, and under private arrangements 66 per cent., and I have little hesitation in saying that the difference of 15 per cent. is largely a contribution offered by the debtors, or their friends, to secure immunity from the publicity and contumely of the Bankruptcy Court. For to be made bankrupt still has a stigma attached to it, to avoid which—quite apart from conduct—debtors or their friends are willing to make special sacrifices.

An official claim is even put forward by the Board of Trade in the same direction, in the statement that, "In considering the effect of the Bankruptcy Act, 1883, and the benefits conferred upon the trading community, the indirect influence exercised by it upon arrangements made outside its provisions must not be forgotten." It must also be remembered that, in addition to this moral effect which bankruptcy possesses, in enforcing, under private arrangements, better compositions than would otherwise obtain, the percentage of estimated assets realised under deeds of assignment is much larger than in bankruptcy (1900 Report, p. 15), whilst the percentage of costs is considerably less.

Probable Result of Alteration.

But once remove the boundary which divides the two methods of procedure, and bring all estates and all debtors, whatever their nature and condition, and regardless of the wishes of creditors, within the purview of the Official Receiver, and bankruptcy not only loses much of its importance as a restraining force, but that difference which

represents to creditors an average contribution of nearly three quarters of a million sterling per annum) will almost inevitably disappear. And though it may be urged that there will be a compensating advantage to the nation, it is even then very much like cutting a piece off the bottom of a blanket and stitching it on to the top. The Board of Trade may say, of course, that there is, despite this, something illogical and anomalous in the fact that an inoffensive debtor, who has been thrust into bankruptcy, should be punished by the suspension of his discharge for some minor offence, whilst another debtor, equally or more blameworthy, should, by the payment of a private composition or the cession of his assets under a deed, go free. Surely not less illogical, however, is the fact that in bankruptcy the more offending debtor may buy his discharge by the payment of 7s. 6d. in the £, whilst the less offending one, who is able only to raise 7s. 4d. in the £, should have it refused. It is not in connection with insolvency alone that the man "who steals a goose from off the common" at times comes worse off than he "who steals the common off the goose." But, after all, is not the law full of anomalies, and has not logic often to give place to motives of prudence and expediency, without any real harm resulting?

Suggested Improvements.

What, then, are the directions in which reform should be attempted, in order to render this very desirable method of procedure by private arrangement as free as possible from objectionable features, whilst retaining for creditors the right to control their own affairs. It almost always happens, where there are difficulties in dealing with onerous covenants under leaseholds or contracts, or where a debtor has traded recklessly or fraudulently, or his transactions have been such as to cause general dissatisfaction, that recourse is had to the Court. But when a debtor's faults have merely been those of incompetence or lack of capital, the incurring of bad debts, illness or unavoidable misfortune, and some blame also attaches within their own knowledge to creditors for a certain slackness in the granting of credit, no sound reason exists for setting in motion the machinery of bankruptcy procedure, or for bringing such estates under more official control than at present. To safeguard, however, the rights of both debtors and creditors, certain amendments are necessary in the *status quo*, and these are principally concerned with:—

The Audit of Trustees' Accounts.

Securing of Assets by a Trustee's Fidelity Bond.

The Appointment of the Trustee by Creditors.

The Binding of Dissident Minorities.

Audit of Accounts.

No accountant or other trustee of repute can have any possible objection to the careful scrutiny of his accounts. He is dealing with the funds of his *cestui que trusts*, and it is

as much to his own advantage as to that of those whom he serves that someone representative of their interest shall certify that he has dealt with the funds honestly, and in accordance with the terms of the deed from which he derives his authority. Probably the most convenient method would be that this audit should be conducted by a committee of the creditors, whose certificate should be appended to the annual account lodged with the Board of Trade, under the terms of the Deeds of Arrangement Act. Where no committee is appointed, the accounts could be submitted to a meeting of the creditors, convened by the trustee, and similarly certified by the chairman of that meeting. The advantage of this method would be, that the persons so examining the accounts would be in touch with the details of the estate as it existed at the time of the first meeting. But if no committee were appointed, or if a prescribed quorum did not attend the final meeting, then the accounts might be referred to the Board of Trade for audit.

Fidelity Bonds.

The loss resulting to creditors from the dishonesty of unfaithful trustees is more serious than is generally suspected, and, although the vast majority of trustees are happily of unimpeachable honesty, it is necessary to legislate as a protection against the few who are not, and, as it is impossible to differentiate, security should be required from every trustee under a deed to the extent of the value of the assets shown in the statement of affairs. This bond could be given to a nominee appointed by the creditors, or, in the alternative, to the Board of Trade, as in bankruptcy. Inasmuch, as in bankruptcy, this course saves the creditors from loss by default of the trustee, it would not appear that any other official control is called for, provided that upon the close of each estate any unclaimed dividends or undistributed balances are paid over to the Board of Trade.

Appointment of Trustee.

One of the main causes of dissatisfaction, in connection with deeds of arrangement, is that creditors lack the right, as in bankruptcy, of appointing their own trustees. An assignment being a voluntary surrender of assets, it happens, not infrequently, that such a deed is executed in advance of the creditors being consulted. Sometimes, owing to legal proceedings putting the assets in danger, this step is taken as a reasonable protection from execution, pending a meeting of creditors being convened; in many cases, however, the deed is executed without any necessity existing for the protection of the assets, and mainly with the clear intention on the part of the debtor's solicitor, and his accountant nominee, of retaining in their hands the conduct of the winding-up. I need scarcely say that, as a rule, solicitors and accountants who resort to this method are the least desirable of their kind. They trade upon the knowledge

that the only means of dispossessing the trustee, and avoiding the deed, is by the filing of a bankruptcy petition, and that in many estates creditors are very averse from doing this.

But, inasmuch as in almost every instance where a deed is taken the estate is insolvent and all the assets belong to the creditors, it is obviously unfair that though they pay the piper they may not call the tune, and certainly some remedy is called for in this direction. Where an accountant of repute is already concerned in a matter, it is not the rule that creditors tend to remove him; and where he is not reputable—as sometimes happens—there is every reason why they should have the power to do so. I would suggest, therefore, that no deed should be permitted to be registered, unless, in an affidavit by the debtor or his solicitor, it is deposed that a meeting of all the creditors, whose names are set out in the debtor's affidavit, has been convened and held at a convenient time and place at not less than three days' notice, and that at such meeting a majority of the creditors, or their representatives, resolved that the person named in the affidavit was, by a majority in value of those voting, appointed trustee. And where the person so appointed differs from the person named in any deed already executed, the person appointed by the creditors shall, upon registration of the deed, become *de facto* trustee under such deed in place of the trustee named in the deed. I recognise the possibility of the creation of bogus claims for this purpose, but the ordinary provisions of the criminal law against perjury would, I think, safeguard this.

Dissident Minorities.

In the report of the Inspector-General for 1888 it is stated that "there is, on the part of a very considerable and influential section of the commercial community, a strong desire to maintain and extend the existing facilities for carrying out private arrangements"; and further on the opinion is expressed that, "It is undoubtedly a hardship on creditors, when no question of conduct is involved in the debtor's failure, and when the majority of them are satisfied that his assets can most efficiently be realised by a particular method of procedure, that they should be prevented from carrying out their wishes by the action of a single creditor . . . there is an equal hardship in excluding even a single creditor from a share in the deliberations, and from the exercise of a reasonable influence in determining the procedure to be adopted."

I extract this quotation because it deals with a growing evil in connection with private arrangements, to which attention should be directed by the Legislature in any amendment of the law affecting such arrangements. I am at a loss to understand, however, why in the official view it should be regarded as a hardship that a creditor under a deed should be compelled to fall in with the wishes of

creditors representing, perhaps, in the aggregate five hundred times the amount of his claim, upon a matter in which their aims and interests are, or should be, practically identical. The test of majorities (which has been defined as the doctrine of "counting heads to save the trouble of breaking them"), however imperfect it may be, is the best method which so far the ingenuity of man has been able to devise for deciding and carrying into effect differences of opinion. The whole system of representative Government is carried on upon the same basis. In bankruptcy itself there is no conservation of the rights of minorities. The majority elects its own trustee and committee of inspection, and accepts or rejects a scheme of arrangement, regardless of any opinions to the contrary which the minority may hold.

But even if, under private arrangements, the somewhat unfair power vested in minorities by the Bankruptcy Act were only wisely and honestly used, it would not be open to such serious objection. As it is, however, in view of the fact that deeds of arrangement and notices of suspension are made acts of bankruptcy upon which a single creditor for £50, or a combination of creditors for that amount, may overturn any private arrangement, however beneficial, and quite regardless of the fact that "no question of conduct is involved," the provisions of the Bankruptcy Act in that regard are being daily used by minorities to extort preferences for themselves, in contravention of the spirit of the very Act of Parliament which enables them to do it. Their usual method is to "lie low" until a large majority of the creditors has assented to an arrangement, and until the trustee has done a considerable amount of work and incurred the responsibility of being treated as a "trespasser" if bankruptcy proceedings ensue, and then to issue from their retirement, and by threats of bankruptcy or the actual filing of a petition, to induce, if possible, the buying off of their opposition.

It is not, by any means, that these particular creditors are more moral than the rest, or that, from the stern motive of inquiring into the debtor's conduct, they are determined to invoke the aid of the law. In the majority of cases in which creditors' petitions are filed, with a deed or notice of suspension as the act of bankruptcy (and I speak with some knowledge and with a due appreciation of the gravity of my language), the attitude of the petitioner is not that of the high-minded citizen seeking a statutory redress for his grievance, but that of a sordid calculating buccaneer on the hunt for spoil, and who cares not who sinks, so only he may swim.

The knowledge of such methods by the Courts is shown by recent appeal decisions. In one instance the receiving order was refused, on the ground that although the proceedings had been issued within the requisite three months, they had been so delayed as to imply either tacit assent to the deed, or, at least, not such a violent objection to it as

would have been indicated by the taking of immediate proceedings. In another case relief was refused, for the reason that the creditor had bluntly offered to sell his right to present a petition for a sum in excess of the amount to be received by the other creditors. It is true that these decisions effect some remedy, but they do not eradicate the disease—a slight readjustment of boundaries only being necessary to evade them. If, therefore, private arrangements are to endure and to be rendered as free from corruption as may be, the State, whilst taking care of the conduct of debtors in the interests of the community, should surely have equal regard to the conduct of creditors which offends against the common good.

Suggested Remedies.

The most effective plan would be to make the assent of a large majority of the creditors upon each estate bind the assent of the remainder, leaving out of the calculation claims due to relatives of the debtor. There would surely be no tyranny or hardship, for instance, in the decision of a majority of five-sixths binding the remaining one-sixth. Alternatively, the duration of a deed or notice of suspension, as an act of bankruptcy, might be limited to one month. This would be an advantage in any case, in view of the far-reaching effect of the very recent decision in *Ponsford Baker & Co. v. The Union of London and Smiths Bank, Lim.* Though this finding, perhaps, does not extend the effect of previous decisions in reference to the doctrine of "relation back," it emphasises, in a most disquieting manner, the fact that a trustee under a deed, in view of its being an act of bankruptcy, cannot enforce payment for a period of three months of any debt due to the estate, and that it may, during that period, be a sufficient plea, in bar of any proceedings he may institute, that he has a defeasible title.

A third method of dealing with dissentients would be to allow the trustee and creditors to appear on the hearing of a petition, and demur to the making of a receiving order, which the Judge should have power to refuse, unless the petitioner were prepared to prove that to administer the estate under the deed already executed was not in the general interests of the creditors, or was against public policy.

Conclusion.

With such amendments of the law as I have indicated carried into effect, a long step will have been taken towards remedying some of the defects which experience has shown are inherent in our present methods. The establishment of a really perfect system of insolvency administration has not yet been attained by any nation in the civilised world; and, however judiciously devised it may be, it will be unwise to expect too much from ours, even when the most recently contemplated alterations have been effected. At best, they can be only a palliative and never a cure, and the surest remedy and chief protection of creditors will always lie, not

in Acts of Parliament, but in the exercise by themselves of prudence and caution in the granting of credit. (Applause.)

Mr. Arthur E. Green (London): Mr. President and gentlemen, the resolution that I have to move reads as follows:—"That the Society of Accountants and Auditors (Incorporated 1885), in conference assembled, expresses its opinion that, both in the interest of the trading community and of the accountancy profession, it is desirable that in any amendment of the insolvency laws, provision should be made by which, under deeds of arrangement, a majority of creditors, representing three-fourths of the total liabilities upon any estate, should bind the assent to the arrangement of the remaining one-fourth, and that, in addition to an audit of the accounts of trustees under such arrangements, security should be required from all such trustees in like manner as in bankruptcy." Such a resolution as that put to such a meeting as this would, if we simply contented ourselves with the satisfaction of passing it, require not a word of comment; I am sure it would be passed unanimously, but as I think the proceedings of to-day are those of a body of experts having special knowledge of the matter we are discussing, these words will, I am sure, go further outside and tend to confirm a growing opinion that there must be amendments enabling creditors more readily to arrange with their debtors without the intervention of officialism. I think, therefore, I must put one or two cogent arguments together in order that we may justify the passing of this resolution, not to ourselves, but to outsiders. Mr. Price, in his excellent paper, has undoubtedly given you a large number of arguments, and perhaps I have only to emphasise some few, and if I can add one or two I shall be very glad. The Act of 1883, I think we will agree, was considered to abolish private arrangements, and was intended, if possible, to force all arrangements between debtors and creditors into the Court of Bankruptcy. (Hear, hear.) But legislation, especially if it is a preventative of what we may call the rights of the public and against public opinion, invariably fails. (Hear, hear.) So in this case. After the very short interval of four years the Legislature, and the officials of the Bankruptcy Court who arranged that Act, were bound to confess their failure; they were bound to ask for powers for registering deeds. In other words, deeds had arisen directly the Act was passed, and in four years they became such a powerful means of arrangement that the Courts were bound in some way or another to acknowledge them in order to get the statistics they require. Now it is very clear, and hardly needs our confirmation, that the public will have some means of arranging privately. For evidence of that, you only require to go to the report of the Inspector-General in Bankruptcy, who tells you that there are over 4,000 deeds of arrangement, against only 4,500 receiving orders. You must bear in mind that receiving orders are often

obtained against the wish of the body of creditors, so that if we could only find out the number of receiving orders obtained in that way, and add them to the private arrangements, we should find probably that they would be greater than the receiving orders. Then, again, when the assets are of any magnitude the creditors are desirous of conserving them, and the result is that the average estate dealt with under deeds of arrangement is greater than those under receiving orders. Now, our resolution, rightly I think, puts the interest of the trading community first. And I think we all here admit that that does come before the interests of the accountancy profession. But in putting my arguments to you I propose to reverse the order and treat of the inconvenience to the trustee, because he is the first to feel it, and I think it is better also that we should go from the lesser to the greater rather than from the greater to the lesser. The £50 limit which Mr. Price has alluded to is too small, and it does give the opportunity for creditors, or one creditor, or a combination of small creditors, to upset the arrangements which are desired by the majority. We have heard lately that minorities must suffer. Well, we will accept for the present that dictum, but it seems unfair that the majority should suffer as against the minority. (Hear, hear.) Now, this facility enables one class of creditor in particular to enforce either its preference or its wishes upon the creditors. I am alluding now to money-lenders. In nine cases out of ten if you have money-lenders as creditors you may as well put the thing into bankruptcy at once, because they have the object of forcing bankruptcy as a deterrent to the weak-minded customers they have, a deterrent—in other words, to the other customers, or they are not averse to a little preference if they can get it. We have yet another difficulty before our barque, the estate, can be steered into safety. We have a class of person who, perhaps, I may somewhat euphemistically term the creditor's representative. We all know him. He comes to the meeting and insists that unless something or other is done his client will be advised to go into bankruptcy. It is not a new thing, because Mr. Bankart, of Leicester, as long ago as 1899, writing to the papers, mentioned one who insisted that he would recommend bankruptcy unless he was paid one-third of the commission to be earned by the trustee under the deed. The consequences to the trustee, of course, are very serious. He may be treated as a trespasser, and he may be required to put back the estate into the position that he found it. It is true that he is not often compelled nowadays without some just cause, but the law is on the side of the Official Receiver if he requires it, and in times gone by he has required it; he has refused all payments by the trustee, and created sometimes great hardships. I think they are a little more enlightened now, but still there is the danger. Or the trustee under the deed, as you are aware,

may be treated as an agent of the Official Receiver or new trustee, and advantage taken of his acts, even to the extent of taking commission upon the realisation which he, the dispossessed trustee, has made. That seems to me a very unfair thing. The consequences to creditors are even more serious, for during the three months that the trustee under the original deed is running, his hands are tied; he cannot work with freedom; he cannot realise very often as he would want, and the creditors, therefore, do suffer from the insecurity of his tenure. He may be compelled, perhaps, where he has a creditor threatening, to sell by auction where otherwise he would sell privately. I know of one instance in my own little experience where, having commenced proceedings, a creditor representing one of these so-called trade societies informed me he had clients who were going to put a petition on the file. It happened to be a very small matter, and I said "Very well, go on." The result was that the creditors got nothing. Another evil which results from it is that the trustee presumably chosen by the body of trade creditors, who best knows how that deed can be dealt with—that trustee they are not able to re-elect again in a bankruptcy. Now, all these consequences may flow from the ill-doings of ill-considered people, but I think they are particularly hard when they flow from the action of two well-paid Judges, as they did recently. You perhaps remember the case of Brindley, where the Registrar, a comparatively poorly-paid official, refused the receiving order. That case was taken, and according to the law as it stood and as it stands to-day that Registrar was perfectly right. The Divisional Court dealt with the case, and, to everybody's astonishment, decided that the receiving order should go, and during that month or two our friends had a very high time of it. I know of more than one instance where blackmail was paid, which would not have been paid by friends of the debtors if the law had been allowed to stand as it was ultimately restored by the Court of Appeal. Those are, shortly, the evils from which we have to suffer. The remedy, I think, is shown in this resolution—the principal remedy, because there are other remedies which Mr. Price has mentioned in his paper, and which, if my resolution were at all enlarged, I should be very glad to deal with, but I refrain and stick, like the cobbler, to the last, which is my resolution. With regard to the majority binding the minority you will see that my resolution somewhat differs on the question of quantity. I think Mr. Price will allow me to say that we are agreed in principle, but we are not agreed in detail as to whether the majority to bind the minority should be five-sixths or three-fourths. I have heard various quantities put forward in this way, and I have often wondered where they came from. I do feel that in my suggestion of three-fourths I am acting on precedent. (Hear, hear.) We have three-fourths in company law; we have three-fourths as a special resolu-

tion in bankruptcy; we have the ordinary minority, of course, for an ordinary resolution, but treating this as a special subject requiring the same majority as a special resolution we only need add the words "a majority in number, or three-fourths majority in value," and we get exactly the special resolution. Perhaps that was in my mind when the words "three-fourths" were put in the resolution, and I venture to think that Mr. Price, if he perhaps thought that we might get the three-fourths majority, would not be averse to it. It has been said sometimes in arguments on this matter, "Oh, but is not it unfair to cut out the last creditor, who may be badly treated, and who won't put a petition on the file?" Well, one person must be the last creditor, and I do not know why that creditor, who, perhaps, ought to have known better than to give credit in such insecure circumstances, ought to have any preference or better rights than the other creditors, who, perhaps, have sent their goods or whatever they may have supplied him with, when the debtor was in a better position. Now I will deal shortly with the question of audit. On this question I agree with Mr. Price that we should, as far as possible, eliminate officialism from the deeds, and that we should be content with an audit by the committee of inspection or sufficiently large creditors to say they have a stake in the concern. I, perhaps, have the honour of working for a trade where we really do have efficient committees of inspection. I know you do not always get them. But then comes the last, and I think the only resort we should have to officialism. I think accounts should be audited privately if possible, but, if not, by officials; audited they must be. Then, with regard to the bonds, I think that again brings us back to the question of audit. I think none of us would disagree with giving bonds to either members of a committee of inspection to the largest creditor, or, in the last resort, to the Court of Bankruptcy. I think it would have this effect, that the guaranteeing societies would themselves insist upon an efficient audit and periodical accounts. I think, therefore, those two things will combine to produce a better state of affairs. Now, we are not here as accountants grinding our own axes, because these same demands have been made by the commercial community. Those who may be interested in Chambers of Commerce will know that all over the country, wherever Chambers of Commerce have meetings, and very often at their annual meetings, you will see resolutions passed practically recommending exactly what we are recommending to-day, and sometimes even more stringent regulations than these. I have just taken the names of some few towns which have recently passed resolutions of this nature. I find Bolton, Hull, Leicester, Luton, Nottingham, and Reading have all put down resolutions upon this same subject, embodying what we are asking to-day. I therefore would ask you to pass

this resolution in justice to the trustees, for the benefit of the creditors, and because, in recommending that, we are complying with what we believe to be a public demand. (Applause.)

Mr. E. W. E. Blandford (London): Mr. President and gentlemen, I suppose it is almost too obvious a truism to mention that if there were no creditors there would be no accountants, and because of that the interest of creditors should be entirely the interest of accountants, and from that point of view I think we should address ourselves to the consideration of this question. We have not ourselves to think of in the slightest degree in the winding-up of estates; we have to think primarily of the result to be obtained for those persons who send us to manage insolvent estates, and it is quite certain that better results are often obtained—I won't say always—by a private administration of an estate than by an administration under the Bankruptcy Act. No less an authority than Lord Justice Vaughan Williams said some time ago: "I have thoroughly satisfied myself that there are many cases in which the administrations are of such a character that Official Receivers, however able and zealous they may be, are not the most appropriate and fitting persons to act. Official Receivers cannot, in the nature of things, perform their duties nearly so well as a commercial liquidator can do." I suppose Lord Justice Vaughan Williams, at the time he was at the head of the Bankruptcy Court—or in charge of bankruptcy, to put it more correctly—was the ablest bankruptcy judge of recent years, and any opinion of his is certainly worth considering. Now, creditors themselves are distinctly in favour, as Mr. Green has pointed out, of private arrangements, and, as a fact, in certain trades—I believe in that with which Mr. Green is connected, and certainly in that with which I am connected—arrangements altogether outside either bankruptcy or the Deeds of Arrangement Act do exist to a very large extent. To creditors the advantages, of course, are very obvious, inasmuch as distributions can be made at once if all creditors agree to fall in with any particular scheme of composition. I am quite certain that creditors would avail themselves of the Deeds of Arrangement Act if it were possible to bind any dissident minority which might exist. There are many cases in which a composition of 5s. in the £ is quite a sufficient amount to expect an estate to pay, and, in cases where it is so, creditors are often willing to accept it if they can obtain it quickly. They therefore resort to a private arrangement of the debtor's affairs, even sometimes to the extent of winding up an estate—realising it, so long as it realises an agreed amount. But the minority of one—generally of one, for my experience is that creditors do not, as a rule, combine to put petitions on the file; it is generally one creditor who does it—can very often prevent a very large number of creditors obtaining an amount which they them-

selves would be perfectly willing to accept, and which it is perfectly fair, in the opinion of the accountant in charge of the matter and representing the interest of creditors, they should accept in discharge of the liability of the debtor. I have known several cases lately in which one creditor has prevented considerable sums of money from coming to the other creditors in the same trade by the assertion of the right of the minority—where in every case the matter would have gone through, and where, as a result, no one has received anything, because there are many cases in which there is nothing to be gained by making a man bankrupt. Take, for instance, the case which I often meet with—I am speaking of the millers' and bakers' trades—in which a man's lease is mortgaged for a considerable sum of money. The liquid assets very often are almost nil; there is very little stock; there are a few book debts, and the principal asset is the value of the goodwill as attached to the lease. In a case of that sort the mortgagee can, in bankruptcy, enter into possession and can continue the debtor in the shop, and he can go on trading, in spite of his being in bankruptcy, as manager for the mortgagee. In a case of that sort if a relative of the debtor should come forward and offer to pay a composition, say of 7s. 6d., or even of 5s., in the £ to the creditors, and the large majority of them are willing to accept it, surely there ought to be a power to bind a small minority to compel them to accept that composition, because, in the event of bankruptcy, no one creditor would obtain a penny. That that is the opinion of that particular trade is instanced by the fact that at the Incorporated National Association of British and Irish Millers a unanimous resolution was passed almost in the terms of the resolution which I am seconding to-day: "That deeds of arrangement shall be made legal, and that the resolutions accepted by creditors representing 75 per cent. of the unsecured liabilities shall be binding on all creditors." I was present when that was unanimously passed by the Association of Millers, and it is certainly the opinion of that trade. I am pleased to say the President will be with us as our guest to-night, and I hope I shall be able to encourage him by telling him that this resolution has been passed unanimously to-day. I do not know that I can add very much to what has already been so ably said by Mr. Price and Mr. Green, but I do hope that in all these cases we shall cordially support the other two clauses of the resolution, namely, that there should be an audit of all trustees' accounts, and I daresay it is your practice, as it has been mine, in cases where there is no committee of inspection to always have an audit by inviting the principal creditors to attend for that purpose. I do not think I remember a case since I have been in practice in which I have sent out accounts which have not been audited by someone in connection with the estate, even if there has been no committee of inspection; and, of course, as our interests are those of our

clients, we cannot possibly have any objection to the fullest investigation of all that we do. (Hear, hear.) Then, again, as to the giving of security. That is a matter which would not be the least trouble to any one of us, and if it removed any objections in the minds of officialism to further legislation in respect of deeds of arrangement, I for one—and I am sure you will agree with me—would be heartily glad to give any security that might be required. The facilities for the giving of security now are so very simple that there can be no objection on the part of accountants. This resolution is primarily in the interests of the trading community at large, and therefore should be passed by us most heartily. (Applause.)

The President: The resolution is now open for discussion. As it arises out of Mr. Price's paper, I shall not rule anyone out of order who discusses the paper as well.

Mr. C. F. Sharp (Birmingham): I think that in connection with deeds of arrangement all solicitors' costs should be taxed. At the present time they are not taxed, and I am sure it would be eminently satisfactory if the creditors knew that the costs of solicitors were taxed.

Mr. H. R. Sibson (London): Mr. President and gentlemen, seeing that bankruptcy makes many debtors as a profession and the making of deeds of arrangement a fine art, and that of late years the tendency has been to take estates out of the hands of accountants and place them in the hands of officials of the Court to realise, I should like to give one example of the method in which these estates are realised for the benefit of creditors under the present system. The assets were about £600, and the realisation—I am going to state it roughly—amounted to £599 19s. 11½d. There was only one reason that impelled me to intervene in this discussion, viz., the question of binding the minority of creditors by a certain percentage—75 per cent., or three-fourths of the other creditors of the estate. It does not appear to me, though I may be wrong, that the resolution moved by Mr. Green sufficiently safeguards the interests of the trade creditors as opposed to the relatives of the debtors and a few interested persons, as is suggested in this paper which has been read to us by Mr. Price. He refers to the question of the relatives of the debtors, leaving out of the calculation claims due to the relatives of the debtors. I am open to correction, but I do not know whether this resolution sufficiently safeguards that point. Would it be possible or practicable for an amendment to be introduced into it, that this majority should consist of three-fourths of the *bona fide* trade creditors? That is a point I would like to press upon the meeting. As drawn, the resolution would almost leave it in the hands of a three-fourths majority of any creditors of the estate; and one's experience in dealing with matters of this sort is that very often there are creditors—interested creditors on behalf of the debtor—who will completely

swamp the interests of the trade creditors in some such fashion as may be easily imagined. I do not know whether I should be in order in suggesting an amendment to the effect that the majority should consist of three-fourths of the *bona fide* trade creditors.

Mr. Charles H. Wilson: Mr. President, it seems to me to be a far cry from Greek mythology to bankruptcy reform. From our good friend Mr. Price's acquaintance with old Sisyphæan, and extending all these years downward, I should imagine that his range of vision is practically unlimited. (Laughter.) His paper is about as argumentative as portions of the New Testament. I am compelled to say that, divested of his well-known argumentative style, it is a good paper, with one exception. I do say this, that as to the making of the Deeds of Arrangement Act subservient to the Bankruptcy Act I do not know under what principle of the Constitution it is done, but it does seem to me to set up a serious anomaly. One statute ought to rank equally with another statute. I commend that as a point to some of our masters of legal jurisprudence. We are confronted, in connection with all these bankruptcy matters, with a department that does not pay, which leads to, I do not say direct pressure, but I think there must be indirect pressure on officials to make it difficult for the Deeds of Arrangement Act to run. I am now speaking of one's actual and everyday experience in having to deal with them. It is very difficult indeed to get them through without obstacles being put in the way, either by the advice of the Official Receiver to one particular creditor, or in some such way. The one creditor who objects to a deed going through in most cases, I venture to say, acts upon a principle or upon a notion which is entirely wrong—namely, that of revenge—and it ought not to be possible that one man, in a spirit of revenge, should proceed to wreck the interests of all the rest of the creditors. (Hear, hear.) I will just give you a case of how the operation of the bankruptcy laws at the present time, or their administration, acts adversely to deeds of arrangement, or, I should rather say, to the appointment of trustees. This very delay between the filing of a petition and the calling of a meeting in many cases enables entire estates to be realised, because whatever difficulties you may have in enforcing your demands for book debts in three months, that does not apply to the Official Receiver, who is not long in applying for any moneys that may be due to the estate. Now, is this question of withholding a bankrupt's discharge as real a punishment as some of us from the debate appear to think? I say it is not—(hear, hear)—and it is evaded by a man trading in his wife's name or in the name of some other member of his family. And you find that certain men, even apart from that, have been involved in bankruptcy proceedings three or four times. It does seem to me that, in addition to that, the so-called protection of creditors in punishing fraudulent debtors is not either as

sound or as good as it may seem to be. Large numbers of persons commit offences and they are never brought to book; for some reason or other the Official Receiver will not move against them. It may be that there are not the necessary funds in connection with the estate, and there is an unwillingness on the part of the estate which does not pay to find the necessary moneys to put him under any degree of punishment. Now, I have not heard anything said in connection with any proposed alteration, either in connection with bankruptcy or deeds of arrangement, as to the serious evil which exists at the present time in touting for trusteeships. And I do not know that an auditor appointed by creditors would not be very much better than an audit by a committee. This brings me to the exception which I make in the case of Mr. Price, who yesterday probably would be heart and soul with us in objecting to a Local Government Board audit in connection with municipalities, and to-day is almost prepared to swallow an audit of these trade accounts by the Board of Trade, another Government department. Now, I expect my friend Mr. Price to be consistent, and I think we ought to be consistent. Whatever may be imposed upon us, it is not for us to call for further official and Governmental interference, and I want to make that point as strong as I can; and I think that apart from that there is not much difference of opinion amongst us. Then with regard to the bond all will agree, though in some cases bonds are exacted for far too large sums, which is a direct cause of loss to creditors; although it does not affect the trustees materially, there ought to be some discretion used with regard to that matter. The other recommendations contained in the speech of the mover of the resolution I entirely agree with. I certainly think that this is a contribution to the subject which will have very great weight with the authorities, who are anxious to do that which is best for the community as a whole. It will furnish them, at any rate, with some points to enable them to resist certain official views which would make it impossible, in my opinion, for deeds of arrangement to be utilised at all.

Mr. S. M. Hughes (Wrexham): There is one point Mr. Price mentioned in his paper about the solicitor's nominee. I think there is something to be said for the solicitor's nominee—that is to say, for the man on the spot—as opposed to the people to whom our ex-President referred, namely, the touters, the people who come to the meeting armed with authorities, bogus and otherwise, and simply capture the meeting by cheek. (Hear, hear.) Something should be done against this class of people, who make a fine art of it as soon as they get a notice relating to £5 or 5s.; there ought to be some safeguard for the man on the spot and for the solicitor who knows all the circumstances of the estate. (Hear, hear.) Then there ought to be some provision against the trustee's remuneration. A petitioning

creditor showed me a statement of account the other day, and his excuse for presenting a petition was that there was no provision against trustees' remuneration. In this case it was a Manchester accountant, who had sold the estate as a going concern for £200. The solicitor's costs were £37, and the trustee's remuneration £30. He said that in bankruptcy that could not be. Some safeguard or provision ought to be made for supervising costs of that kind. Then I should like to emphasise the great importance of a majority binding a minority. I am in London to-day partly in connection with a case where I am trustee. The assets are £1,800. All the trade creditors assented. One money-lender who had been looking out for a partner for nearly three months found one, £60 being their total claim, and they put a petition on the file. My deed matured about a fortnight ago, and they are applying for substituted service. The debtor has absconded; all the assets are realised and ready for distribution, and the only conceivable reason for a petition is to enable these unscrupulous money-lenders to get their bill of costs. Their proposition now is that they will be willing to be bought off with £5 for their clients and the payment of the solicitor's costs.

Mr. Harry Wilson: Mr. President and gentlemen, when I saw the resolution, so cleverly worded, in the August number of the *Journal*, and saw that Mr. Price, Mr. Blandford, and Mr. Green were going to speak in connection with it, I did not think there would be anything further to be said. But there is one point, so far as the speeches have gone, that I rather strongly object to, and that is as regards the person or body to whom the security is to be given. Mr. C. H. Wilson seems to suggest that officialism would to a certain extent be assisted if the bond were given to the Board of Trade—(Mr. C. H. Wilson: "The audit")—I know, as regards certain trades represented by Mr. Green, Mr. Blandford, and various others, that they get committees of inspection who take a real interest in the administration of the estates. I act in a lot of bankruptcies of every possible description, and in nine cases out of ten, if the creditors know you and you have acted as trustee before, it is the greatest possible difficulty to get them to attend a meeting to audit the accounts. I think it is of great importance to the trustees that the Board of Trade should be the auditors. Now, there is one important point I want to put forward. I have been connected with bankruptcy in one way or another during the last twenty years, and one of the first duties I had in an official position was to serve upon certain accountants that memorable circular drafted by Mr. Chamberlain calling upon trustees under the old Bankruptcy Act to render accounts. I consider that the firm action that the late Inspector-General in Bankruptcy, Mr. Smith, took in regard to the audit of accounts made it possible for the profession to get rid of probably many of its most undesirable parties,

and I think it is of the greatest importance that the Board of Trade should audit the accounts. So far as officialism goes generally, I have not had the opportunity of looking at the earlier portion of Mr. Price's paper, but I was hoping that he would suggest here to-day that officialism should be set aside altogether so far as the realisation of assets is concerned. I think the Board would have plenty to do in connection with the administration of bankruptcy estates without interfering with the realisation of assets. It seems a frivolous kind of thing that a great department like the Board of Trade should come into competition with professional accountants. (Hear, hear.) There are one or two points that I thought might be suggested where the officials who are at present employed in realisation might render better service than they do at the present time. One point is about the discharge of bankrupts. I think that for a bankrupt's discharge application should be made as a matter of course, and it should come on when everybody has the facts before him. At present it comes on years afterwards, and these men have not got their discharge. If you want to find out whether someone who is an undischarged bankrupt is an honest man, you go and search the file of proceedings. In order to form a correct idea as to whether that man's case was a good or bad one you may have to wade through hundreds of pages of closely written notes of his public examination. If every discharge came on as a matter of course and the Official Receiver had to make a report, that is one of the matters where, so far as London is concerned, an enormous amount of work would be put upon the department. In connection with the granting of discharges there is one point which always seems very funny to me—that is, that the Registrars, except in very special circumstances, will not make an order making a man pay something out of his future earnings. I think it has been held in a recent case that the Court has no power to make an order without the consent of the debtor. In a number of cases the debtor ought to be compelled to pay something. I have two cases in mind at the present time. One man is the secretary of a company; he earns £600 a year, and his wife has a private income of £200. He has made an arrangement whereby he is under a monthly notice, instead of having, as he might have had, a three years' agreement. The effect of that is that we cannot go to the Court and ask that man to set aside a penny. Then there is another case where a man is earning on commission something like £2,000 a year, but it is impossible, under the present regulations, to ask the Court for an order compelling him to set aside something. Another point that I think should be dealt with, if any alteration is made, is that the public examination of bankrupts ought only to take place, as it does now in companies, upon a special application by the Official Receiver. I have had a case recently where there was a burglary, or a supposed burglary, of £2,000 worth of

goods. Now, at the public examination we were confronted with the bankrupt having stolen the goods herself, or, on the other hand, we had to allow the matter to go. The people connected with the burglary insurance company were present in Court ready to take notes, and the consequence was that we could not go into the question. If those examinations took place privately, as a matter of course the creditors would very often get far more advantage. It would give the Registrars opportunities of giving more time for private examinations under Section 27, which are extremely useful. The other point I should like Mr. Price in his reply to deal with is as to what is likely to be the outcome of this Commission; will their recommendations come before the public before they are acted upon? I think there is something in the Bankruptcy Rules that gives some official power to make new rules and that kind of thing. If any important alterations are made will they, as a matter of course, come before the Trade Associations, Chambers of Commerce, and Societies of Accountants? (Applause.)

Mr. J. W. B. Brown (Birmingham): Mr. President and gentlemen, this conference has been laid under a great debt of gratitude to Mr. Price for bringing forward this subject, which is of such vast importance, and for the very able way in which he has treated it, and not only this conference, but the commercial world outside, because I take it that the proceedings here to-day are not confined to these four walls. Mr. Price has diagnosed a commercial malady and, I think, fairly well provided the remedy; but I agree with some of the criticisms offered by those who have spoken. I do not quite agree, however, with Mr. Wilson, that Mr. Price is inconsistent in advocating to-day that the accounts shall be under official supervision, while yesterday, as applied to municipal matters, the accounts should be audited by professional accountants. I do think that there should not only be a record of the trustee's transactions in the estate with which he is connected, but that also the Board of Trade should have power to call upon trustees, when estates are wound up, to pay over unpaid dividends to the department in order to prevent their being called for by a dissentient creditor at any future time. Whether Mr. Price has safeguarded the interests of the *bond fide* creditor is doubtful. A question has been raised as to relatives proving as against *bond fide* creditors. Those of us who can go back to the Act of 1869 and the practice under that Act will remember that under Section 125 it was the practice of solicitors who were largely engaged in bankruptcy matters to bring forward a number of relatives of the debtor to prove against the *bond fide* creditors. Mr. Price suggests that the law against perjury might be sufficient, but it was not sufficient in those days, and in many cases there was a great deal of abuse. I have in mind now a certain solicitor who usually carried a composition of 6d. in the £. It was well known that when an estate got

into the hands of a certain practitioner the creditors might not expect more than 1s. in the £, because by means of creditors—whether *bond fide* or otherwise I will not say—a three-fourths majority was obtained and the scheme was carried through. I do think that the objection put forward by a previous speaker on this subject should have consideration at the hands of Mr. Price in replying to this question.

Mr. G. Palmer: Mr. President and gentlemen, I should like to add my small quota of appreciation and thanks to Mr. Price for the very able way in which he has compiled this paper. I am quite sure it was brought about only by very careful study. With regard to the Official Receiver and voting powers at meetings of creditors, one has sometimes rather bitter experience with Official Receivers. On the whole, I am bound to say they treat us reasonably, and in many cases very fairly, but there are cases where this cannot be said. I have in my mind now a case in which there were two small creditors who, out of revenge, wrote letters to the Official Receiver, and notwithstanding the fact that more than three-fourths of the total value of the creditors were in favour of a trusteeship, the Official Receiver quashed the whole matter on account of these letters. That was a distinctly unfair proceeding, and one which we ought certainly, if possible, to try to stop. With regard to this majority of three-fourths, about which there has been so much said, I think, generally speaking, it is a very fair majority among business men. I should be very unwilling to be harder than we are now upon relatives. You will find that in practice relatives are now almost wholly excluded. A case in point happened the other day in Carey Street. The largest creditor happened to be called by the debtor "Uncle Ted." He was not an uncle at all, but the impression had got about among people who knew them in business that he was the debtor's Uncle Ted. He was a very big creditor—for over £1,000—and this idea got into the mind of the Official Receiver, the result being that he would not allow that man to vote. He questioned him very closely in Court and asked him to produce there and then the actual cheques and all the evidence, which a man does not go to a first meeting prepared to do, and because he could not produce all these papers the Official Receiver said "You cannot vote." I think that is unfair. Now as to the trustee's bond. I am bound to agree here with Mr. Wilson. In some cases there is very great hardship in connection with this question, and I will give you a case in point. This may be an exceptional case, but there are many hard cases. At the time of the Boer War I became trustee for a number of Transvaal farms, these being part of the assets of an estate, and, as you well know, property of that kind was valued before the war at a very different figure from what would be considered its value during the war or since. The valuation set down in respect of that property in the statement of affairs was about

£25,000. Well, there was a demand made for a bond for the whole sum. It was thrown into bankruptcy. The premium at only 10s. per cent. upon £25,000 is £125 a year, and for the five years during which I held the estate it came to £625. Now, the farms have only realised about £2,000 or £3,000 altogether. There is a case in point. It does not matter to us really—I mean that it did not come out of my pocket—but it is distinctly unfair and unbusinesslike, I think, for the creditors to be obliged to compel a trustee to give a bond for such a sum. It would, of course, require a good deal of judgment and discretion to determine what the amount of the bond should be. I think Mr. Price, from his own experience and good sense, will agree that the bond should not be in accordance with the value of the estate as given in the statement of affairs. (Hear, hear.) Then there is another point: I thoroughly agree that there should be an audit of trustees' accounts. I do not so much care whether it is by the Board of Trade or the committee of creditors, but I want a good audit. I may say it has been my custom, and I hope it will be the custom of all young practitioners, every time a committee meets, to secure an audit of the accounts. I think that is a very good custom. I have certainly found the benefit of it. It is a good thing to let a committee know from time to time what the receipts and expenses are and what they are likely to be. On the question of touting I should like to say it is a most reprehensible practice. I believe in trade protection societies where they are good, but where they are run by certain accountants and so-called professional men for the purpose of getting trusteeships and using them in their own manner, it is a thing that we must defeat at all costs. (Hear, hear.) I would appeal to my brother practitioners, where you go to meetings of creditors and you find one of these touting men—I cannot call them anything else—putting himself forward, and you also find at the meeting a *bonâ fide* accountant who has probably prepared the statement of affairs and done a good deal in connection with the estate, and you see he is doing the right thing, stand up for him whether he is a colleague or not. (Applause.)

Mr. Keens (Luton): My reason for intervening in the discussion this morning is that I occupy a somewhat different position from the majority of my colleagues, in that, in addition to practising as an Incorporated Accountant, I occupy the post of Secretary of the Luton Chamber of Commerce. As a practising accountant I am familiar with the administration of estates in bankruptcy and under deeds of arrangement. As Secretary of the Luton Chamber of Commerce I have had a good deal to do with the question of bankruptcy law reform, my Chamber having made this question its own, and having moved resolutions on the subject at the meetings of the Associated Chambers which have been accepted by them,

and for the past three years I have had the conduct of these resolutions on behalf of the Chamber. The appointment of the permanent committee was due in some measure to the Associated Chambers. I have been struck this morning by the fact that we seem to live in water-tight compartments, as I certainly expected to hear from Mr. Price, in the course of his admirable paper, or from subsequent speakers, something of the policy of the Associated Chambers with respect to this subject. The Association has a policy, and briefly—for time presses—it is this. Any reform of the Bankruptcy Act should deal first with the question of bankrupts' discharges. There are at the present time an enormous number of undischarged bankrupts. According to the twenty-third Annual Report of the Inspector-General, the number of adjudications since the Act came into operation has been 89,583, and the number of applications for discharge 19,136. Therefore, the number of undischarged bankrupts, allowing for deaths, is roundly estimated at from 50,000 to 70,000. These undischarged bankrupts are a menace to the community, in addition to being responsible for the difficulties which frequently arise with respect to after-acquired property—a question the present Committee has to deal with. The suggestions of the Associated Chambers are, shortly, these. The present method of applications for discharge to be supplemented by a provision that six months from the date of the conclusion of the public examination, or such extended time as the Court shall allow, the Official Receiver shall bring before the Court a report as to the debtor's conduct and affairs. The procedure on the report would be practically the same as now. Additional powers to be conferred on the Judges in bankruptcy so that, in addition to the present powers of granting, refusing, or suspending discharges, they may be enabled to inflict summary penalties on proof of certain offences. Assuming that the bulk of those at present undischarged have been guilty of no serious offences, in a very short time the number would be very considerably reduced. As to the remainder, it is suggested that Section 31 of the Act of 1883 should be amended, substituting an aggregate sum rather than an individual credit of £20. The individual credit of £20 is easily evaded, as in a case which came under my notice a grocer, an undischarged bankrupt, opened some 150 accounts, amounting in all to a fairly large sum for a man in his way of business, carefully keeping each account below the £20 limit, and gleefully informing his creditors in a subsequent failure that he knew what he was doing. In addition, it is suggested that the undischarged bankrupts should be compelled to furnish the Official Receiver with their addresses, under penalty; and, if trading, the style of their firm; or, if an employee, the name of their employers, particularly to see if nominally employed by some member of their family.

In parenthesis I may remark that it is possible that this may be in part effected by the Registration of Firms Bill. A list of undischarged bankrupts to be published periodically. To sum up, the idea is (1) to set free the large proportion; (2) punish a number; and (3) make for the remainder the position of undischarged bankrupt a punishment to the man, and not, as at present, a source of damage to the community.

The President remarked that Mr. Keens had already exhausted his time limit.

Mr. Keens: I regret my time has gone, as I should have liked to have added a few remarks on the subject of deeds of arrangement. The Associated Chambers have formed no definite resolution on the question, but my Chamber has dealt with the matter, and I know the feeling of a number of other Chambers. They generally concur in the position taken up by the resolution, but subject to certain reservations. Here I would appeal to gentlemen present to remember that in any legislation on this subject the dominant idea will be the advantage, not of accountants, but of the whole commercial community, and therefore they must take account of certain susceptibilities of commercial men—prejudices, if you will—and endeavour, as far as they are practicable, to defer to them. I think, however, that it is a matter of congratulation that the view of the profession and that of the commercial community so closely approximate.

Mr. E. Whittaker, J.P. (Southampton): Mr. President and gentlemen, I will not detain you more than two minutes, but I should like to say that I have listened with a great deal of pleasure, as I know you all have, to Mr. Price's paper. Like everything he does, it is first class. I want, however, to take exception to one thing—I have been hoping someone else would do so—and that is to a suggestion he made, which I am sure could never be carried out—namely, that every man who gets into the Bankruptcy Court and does not produce proper books should go to prison, apparently without trial by jury, just at the sweet will and pleasure of the County Court Judge. Well, we have County Court Judges and County Court Judges, and I think it would be unwise to give such power to all of them; and I am certain that if it is left to a jury it will be like the present law with reference to the £20 limit—you will never get a conviction. I hope, therefore, it will not go forward from this room that we are unanimous in saying that a man who, perhaps, without any fraudulent intention whatever, and with the purest of motives, has not kept proper books should go to prison almost automatically. It will not do. The next point is with reference to the audit. Surely the best, the proper, the quickest, and the most effective audit is by some man who can sit down at a table, go through the papers, hear all that is to be said, and give a certificate. The present mode of audit-

ing bankruptcy accounts is to send month after month matters to the Board of Trade, answering questions, and so forth; it is tedious, troublesome, and not at all profitable, and I think that the better way to have trustees' accounts audited—and I quite agree that they all should be audited—is by some professional accountant of ability and repute in the town or district. That, in my opinion, will give all the security that is reasonably necessary. I should also like to say that I think that all costs should be taxed or taxable, whether trustees', solicitors', auctioneers', or anyone else's. Under deeds of arrangement all costs ought to be taxed; it is necessary and requisite they should be. (Hear, hear.)

The President: I will now call upon Mr. Price to reply.

Mr. H. L. Price: Mr. President and gentlemen, I am sorry that owing to the exigencies of our arrangements for this afternoon it should have been necessary for the President to intervene between any speaker and the audience, but I am sure that any of those who wished to express their views upon this paper will readily understand that unless those arrangements are adhered to with the greatest strictness, confusion will ensue. Even I am at a disadvantage, because I am told that we have to finish absolutely—and there is other business to be done after I have completed my reply—by a quarter to one, otherwise I should have been delighted to follow a number of speakers in some of the very interesting points which they have raised. It is quite clear, from what you have heard, that my paper is not all-inclusive. I had omitted what Mr. Green called attention to, and that is the disqualification of a trustee under a deed to take an appointment in bankruptcy. That is a matter to which I should have devoted attention, and to which I readily give my adhesion. So also in regard to the taxing of solicitors' costs, to which Mr. Sharp referred. It not infrequently happens within our experience—yours as well as mine—that where one has been called in by a solicitor to prepare figures, and that solicitor subsequently sends in a bill which we consider unreasonable, we feel ourselves in a rather difficult position in asking for any reduction, or suggesting that it is extravagant, and if automatically the law provided that all these costs should be taxed it would be in the direction of the public benefit. As to Mr. Wilson, he never can leave me alone. (Laughter.) In his exuberant and stentorian fashion, like all Yorkshiremen, he is always ready for a fight, but I really do not know what he wanted. He suggested that my paper would be a good one divested of its arguments.

Mr. Wilson: Excuse me; I draw a distinction. I said "argumentative style."

Mr. Price: It reminded me of Carlyle's statement of John Stirling, that he agreed with him in everything except his opinions. (Laughter.) Mr. Wilson objected to a Board of Trade audit. I really do not know

why. He gave no reason; he simply stated that he objected. But you know that an audit is only good in so far as it is efficient. As a rule an audit by a committee of inspection, within our experience, is not an efficient audit. (Hear, hear.) In six cases out of ten there is no committee. I suggested alternative plans: first, that you should have an audit by your committee, if you wished, and if you had a committee; failing that, you should go to the creditors and have an audit by the meeting, and the chairman should certify; if you fail as to both, I suggested that, as it appears there would be no one else to go to, we should go to the Official Receiver and have an audit by the Board of Trade. (A voice, "A professional man.") It is suggested now that we should have an audit by a professional man. Well, my own doubt is whether the creditors, having appointed a professional trustee, would be willing to pay fees to another professional man to check the accounts of that trustee. (A voice: "You have to pay the Board of Trade.") Mr. Hughes referred to the question of touting. With what he said I am in active sympathy, but he did not touch my view that, inasmuch as the creditors are the persons to whom the assets belong, any portion of those assets which is to be devoted to the payment of the trustee's remuneration ought to clothe them with the right to appoint the man they are about to pay. When Mr. Hughes says there is something to be said for the nominee whom the solicitor has called in, I would agree, provided that nominee is approved by the creditors, but I put the creditors' right as paramount to remove the solicitor's nominee if it seems fit to them to do so. I am obliged to Mr. Harry Wilson for the remarks he made. He emphasised my views as to the Board of Trade audit. He suggested that we should get rid of officialism in the realisation of assets, and I am rather inclined to think, having myself given evidence before the Bankruptcy Law Amendment Committee, that probably if some concession were made by public and professional men in the direction of allowing some kind of supervision, and some element of control by the Board of Trade over these private arrangements, they would not be adverse to surrendering such power as they may take now in the realisation and distribution of assets. Mr. Wilson asked, "What is to be the outcome of the inquiry? Is it to 'be merely a matter of passing new bye-laws, or to take 'the shape of legislation?'" If it goes in the direction which I imagine the officials intend that it should go—that is, if an attempt is to be made seriously to bring the whole body of private arrangements within the purview of the Official Receiver, I do not think that can be done merely by passing a bye-law; it will have to be the subject of legislation, and undoubtedly the commercial community and the professional classes will be heard upon it when it comes to be dealt with. I am sorry to hear that Mr.

Whittaker dissents from me on the matter of bookkeeping. I put to you the only argument that I had, that you punish a man for the concealment of assets, but for that which enables him to conceal his assets you let him go free. I have sufficient faith in the wisdom and probity of County Court Judges to trust them with power in punishing debtors who fail to keep proper books and accounts. Mr. Whittaker has said that if you go to a jury you will get no remedy. Well, a County Court Judge has plenary powers now to commit a man for contempt of his Court, and why not similarly endow him with powers to deal with a man in this connection? I have not time to deal with many other notes I have taken of the points raised. Mr. Palmer referred to the unfairness frequently exhibited towards relatives. The dangers which Mr. Brown indicated, and which some of us who practice under the 1869 Act realise, of relatives' claims being invented for the purpose of arranging the vote, are such that I think the unfairness to relatives which would be involved in carrying out any scheme such as I have suggested would be less than the alternative evil. As to the point to which Mr. Palmer referred—namely, the premium of £125 on a bond, which premium was paid for five years—I suggest to him that that is an entirely exceptional case, even if it is not absolutely unique. I never before heard of an estate kept open for five years, and of a bond where the premium was £125. But what I do remember is this, that in the Inspector-General's report of 1904 there is a record that in something over fifty estates professional trustees have defaulted. That is a shameful thing. It is a stain which we ought to remove, and even at the expense of paying £125 a year for five years, I think we ought to pay it rather than have that resting upon us. (Hear, hear.)

The motion submitted by Mr. Green was then put and carried *nem. con.*

Mr. John Cooper (London): There is one resolution which I should like to submit before the conference breaks up. It is that we pass a cordial vote of thanks to Mr. Rayner for his Presidential address and his conduct in the chair, and to Mr. Price for his admirable paper on bankruptcy reform. (Applause.)

Mr. A. Woodington (London): I have great pleasure in seconding the resolution.

The motion was carried unanimously.

The President: Gentlemen, I want now to move the following composite resolution:—"That the most hearty thanks of the Society are due and are hereby accorded to 'the Right Hon. the Lord Mayor (Sir Walter Vaughan Morgan, Bart.) and the Lady Mayoress, for so cordially 'receiving and hospitably entertaining the members of the 'Society and their ladies attending this conference of 'Incorporated Accountants. That the most hearty thanks 'of the Society are also accorded to the Lord Great

"Chamberlain, the Very Reverend the Dean of Westminster, the Rev. Canon Duckworth, D.D., C.V.O., and the Mayor of Kingston (Councillor H. C. Minnitt, J.P.) for the many courtesies extended by them to the members of the Society and their friends attending this conference of Incorporated Accountants. That the foregoing resolutions be suitably engrossed, signed and sealed, and forwarded in the usual manner."

Mr. Price: I beg to second the resolution.

The resolution was carried unanimously.

Mr. Price: I beg to move "That the best thanks of this Society be and they are hereby accorded to the President (Mr. W. G. Rayner) and Mrs. Rayner for the hospitality extended by them to the members of the Society and their friends attending this conference of Incorporated Accountants. That the foregoing resolution be suitably engrossed, signed and sealed, and forwarded in the usual manner." I need not say a word in commendation of it, but will ask Mr. Whittaker to second it.

Mr. Whittaker: It gives me much more than usual pleasure to second this vote of thanks. I am sure the President has behaved in a very princely way towards us all, and we are exceedingly obliged to him for all he has done, not only for the entertainment of yesterday, which could not have been better, but for everything he has done for the welfare of this Society.

The motion was carried with considerable enthusiasm, and was acknowledged briefly by the President.

Mr. Price: Before you go, gentlemen, may I suggest that the vote of thanks accorded by us yesterday to the Master and the Company of Cordwainers for the use of their hall should be suitably engrossed, signed and sealed, and forwarded in the usual manner? (Hear, hear.)

This concluded the business of the conference.

The Banquet.

In the evening a banquet was held at the Whitehall Rooms of the Hôtel Métropole, at which the company numbered over 250. The President (Mr. W. G. Rayner) occupied the chair, and amongst the principal guests were: The Right Hon. the Lord Mayor (Sir Walter Vaughan Morgan, Bart.), Hon. Sir Thomas Fuller, K.C.M.G. (Agent-General for Cape of Good Hope), Rev. Canon Duckworth, D.D., C.V.O., his Honour Judge Rentoul, K.C., J.L.D., Hon. T. A. Coghlan, L.S.O. (Agent-General for New South Wales), Hon. J. G. Jenkins (Agent-General for West Australia), Mr. Alderman and Sheriff Crosby, M.D., Mr. Sheriff Dunn, Mr. Alderman Burnett, J.P., Mr. W. Watson Rutherford, M.P., Mr. Henry Atlee (President of the Law Society), Mr. George Cave, K.C., M.P., Mr. Stanley Machin (Acting Chairman of

Council, London Chamber of Commerce), Mr. W. B. Peat (President Institute of Chartered Accountants in England and Wales), Mr. F. W. Carter (President of the Society of Accountants in Edinburgh), Mr. G. W. Canham (Master of the Cordwainers' Company), Mr. H. T. Bartlett, I.S.O. (Registrar of Joint Stock Companies), Mr. W. Evans (Inspector-General in Bankruptcy), Mr. E. P. Burd (Inspector of Audits, L.G.B.), Mr. Henry D. Buckland (President of the Auctioneers' Institute), Mr. Albert E. Pridmore (President Society of Architects), Mr. C. H. Cawte, J.P. (Mayor of Southampton), Mr. E. Pascoe Williams (Mayor of Greenwich), Mr. H. C. Minnitt, J.P. (Mayor of Kingston-on-Thames), Mr. W. Strang, B.A., Mr. E. H. Lamb, M.P., Mr. H. J. Mackinder, M.A., Mr. Alex. Ritchie, J.P., C.C., Mr. G. Armitage Smith, M.A., and Hon. George Colville (Secretary of Institute of Chartered Accountants in England and Wales). There were also present Mr. Harry L. Price (Vice-President of the Society), Mr. R. E. Emson (Past President), Mr. Ebenezer Carr (Past President), Mr. Charles H. Wilson, J. P. (Past President), Mr. Edward Kevans, J.P. (President of the Irish Branch), Messrs. Arthur E. Green, Edward Whittaker, J.P., E. W. E. Blandford, J. King, A. E. Woodington, H. Byrne-Jones, G. A. Evans, J.P., J. Cooper, E. Richmond, J. W. Blackham, and W. J. Smith (members of Council), Mr. C. F. Sharp (President Birmingham and Midland Society), Mr. E. D. White (President of Liverpool Society of Chartered Accountants), Mr. H. Toothill (President Sheffield Society), Mr. W. Hunter (President South Wales Society), Mr. A. B. Pilling (Vice-President Chartered Institute of Secretaries), Mr. Alex. Aiken, J.P. (ex-President Transvaal Branch), Mr. T. E. Young, B.A. (Past President Institute of Actuaries), Mr. Arthur Towers (President Institute of Municipal Treasurers and Accountants), Mr. James Martin (Secretary), Mr. William Strachan (Assistant Secretary), &c.

After the usual loyal toasts,

Mr. W. Watson Rutherford, M.P. (in the absence of Mr. E. G. Hemmerde, M.P.), proposed "The United Empire." He said he took it as a very great honour to be invited to that banquet and to be asked to propose that toast. Whether he owed that honour to the fact that he was fortunate enough to be Lord Mayor of Liverpool three years ago when the Society visited that city, or whether he owed it to the fact of his generally admitted brief speeches in the House of Commons, he did not know. He found by the programme that there were to be eighteen speeches that evening, and, presuming there were about ninety minutes in which to make them, he had arrived at the conclusion, though not himself an accountant, that that worked out at five minutes each, not allowing any margin for the drinking of the toasts. (Laughter.) This toast was a most important one. He had simply one idea to give the

assembly in connection with the United Empire—namely, that in some of our institutions and in some of our practices we were apt to forget that there was such a thing as an Empire outside England. Take the problems of the unemployed, the housing question, and similar problems; he thought we would solve them a great deal better if we would remember that we were not simply dealing with London, or even with the great towns of this country, but that we had an Empire, and if a national organisation were made to move labour about the Empire to those places where it could be usefully put to service, he thought that a great many of those more serious problems would be to some extent solved. This was certainly a very appropriate toast for this Society. Accountants had their business all over the world, and were under very great obligations to the Agents-General of the different Colonies—(applause)—than whom a more able, courteous, and hard-working body of men he did not know, though they were at times maligned by individuals who did not understand their functions and their work. It was a very graceful thing to ask those gentlemen to be present that evening, and he had the honour of coupling with the toast the name of the Hon. T. A. Coghlan, Agent-General for New South Wales.

The Hon. T. A. Coghlan, I.S.O., in acknowledging the toast, said he took it as a compliment to the great Colony of Australia, which he and his colleagues the Agents-General represented, that he should be called upon to speak. The greatness of the Empire was a thing upon which he might enlarge indefinitely, but the lesson of our Empire was not merely that of its geographical extent. There had been great Empires before the British Empire was dreamed of; but our Empire stood alone in being the only one the world had known that had been kept together by the goodwill and affection of its various members, for the land from which they had sprung. (Applause.) With England it had never been a question of exploiting her Colonies. She had maintained her Empire by ways of peace, and her most forceful argument had been the mutual advantage to be gained by commercial intercourse. Great as had been the services of the Army and Navy, the merchants had done more than they, or any other agency, to build up and hold the Empire together. Since our Empire had been built up by commerce, it was fitting in a gathering such as this, drawn from the various avenues of commerce, that they should not forget what commerce had done, and it was especially fitting at a gathering of accountants and auditors that the triumphs of commerce in the building up and holding together of the Imperial structure should receive particular attention. Surely the foundation of commercial success rested largely upon the work of members of this Society, who had brought commercial speculation to a science and, by their professional skill, had enabled the trader always to keep in view the

financial exigencies of his position, and had thus made commerce on a large scale possible. It was one of the signs of the times that the words of peace and goodwill were on every tongue. We had the *entente cordiale* with France, our understanding with Germany, and our friendly relations with other nations. These were the excellent fruits of missions and interchange of visits paid by influential people; and the Right Hon. the Lord Mayor, who honoured them with his presence on that occasion, had done no little to build up this good understanding. We had, of course, to keep our relations with foreign countries in good repair, otherwise there was danger of international trouble; but with our Colonies and dominions throughout the world we were under no need to take much thought. They were one people with us, with aspirations similar to our own, had the same instincts, and, if he might be permitted to say so, the same foibles. There was, however, need of closer unity, and if some little portion of the care which was spent upon the conciliation of foreign people were expended in endeavouring to bring about closer relations with our own people it would be in the end much better for the Empire. In further remarks the speaker expressed the opinion that our people at home were too careless of those they lost by emigration. Every man who went to the Argentine, or to any foreign country, even to the United States, might in the end be on the side of the enemies of his country. Every emigrant to a British Colony was a man saved to the Empire. No safer policy could be followed by the statesmen of the Empire than to strengthen the outlying parts of the King's dominions by peopling them with men of the British race. We did not know whence danger might come. The Empire might some day need the help of every citizen, and if ever such a time should come the Colonies would be ready to stand by the motherland, in war as in peace, one cause, one people. (Applause.)

Mr. Harry L. Price (Vice-President) submitted the toast of "The Lord Mayor and Corporation of the City of London." He said that it was peculiarly acceptable to an assembly of professional accountants to toast the civic authority of the City of London, if for no other reason than the fact that it employed the services of more professional accountants as auditors than any other municipality in the three kingdoms. (Applause.) The Public Health Department alone retained three professional auditors, each a member of a different firm, so appointed, he imagined, that each might watch the other two—(laughter)—but as one of them belonged to the Society of Accountants and Auditors they had, perhaps, better not pursue the topic. (Renewed laughter.) The Lord Mayor and Corporation were the almoners of the nation, governing wisely many of our public charities, and rightly entertaining, on behalf of the nation as a whole, foreign monarchs and other distinguished

strangers who visited our shores. (Applause.) It could not be too widely known that the expenditure of the Corporation in public hospitality was not a charge upon the rates, but was derived exclusively from investments inherited by the Corporation from long-gone predecessors. Why those predecessors did not, from inherent instinct, spend it while they had the chance was one of those unsolved problems of history which it were profitless nowadays to pursue. (Hear, hear.) The Corporation of the City of London was the freest municipal body in the world, and had gained what was, when compared with other municipalities, its additional rights of free speech and its greater freedom of action by the sacrifices of our forefathers, involving not infrequently the loss of life and liberty. As to the Lord Mayor, he was now nearing the close of an extremely brilliant year of office, which would compare favourably with the best of his predecessors. (Applause.)

The Right Hon. the Lord Mayor, who was received with great enthusiasm, said it was now some fifty years since he left the city from which Mr. Price himself came, because at that time he was in Manchester. He supposed that somehow or another Manchester was not big enough for him; his fate drew him to London at the close of the year 1855. Little did he think then that he should ever be presiding over a banquet of accountants as Lord Mayor of London. But he had had, happily, a successful career because he was brought up an accountant. (Applause.) In the days of his youth accountants were rare: it was almost a new profession. The first nine years of his career he spent in learning accountancy and fingering money in a bank. As to the kind remarks Mr. Price had made about the Corporation of London he would say without hesitation that that body deserved all the good things they could say of it. Mr. Price had said that in extending their hospitality they did not spend money out of the pockets of the ratepayers. Fortunately they had inherited property from their ancestors, and they had so well nursed or managed that property that the unearned increment and their own industry had enabled them to do a great deal of good, not only in the way of hospitality but also in a great many other directions, without costing the ratepayers a penny. It was a popular fallacy that the expenses of such journeys as that which he had paid to Milan, and that which he was about to pay to Paris, were paid for out of the rates of the City. The Lord Mayor and Sheriffs were invited to go to Milan as the guests of that city, and they were feted in every possible way. He expected they would receive the same treatment in Paris. The accounts of the Corporation of London were very well audited, and if they did spend money improperly, all he could say was—look to the auditors.

The Hon. Sir Thomas Fuller, K.C.M.G. (Agent-General for the Cape of Good Hope), proposed "The Society of

"Accountants and Auditors and its Colonial and District 'Organisations of Incorporated Accountants.'" He said it gave him sincere pleasure to be present and to express his great sympathy with an organisation such as that gathering had assembled to honour. During a business career of some thirty years or more, he had to do, by some strange fate, with somewhat large monetary transactions, and after sundry experiences in dealing with such transactions, and with important finances, he came to the conclusion that if there was one thing necessary for large as well as small establishments it was well-trained accountants and well-trained auditors. (Hear, hear.) The commercial community was much indebted to societies like these which organised the great community of auditors and accountants into associations—built them up, so to speak, into a sort of guild, and tried to keep them, by examinations and otherwise, on the level of one of the professions of the country. It was necessary to guard the commercial life of the country by the strict scrutiny which accountants brought to bear on it, and let them remember that when they guarded its best interests they guarded its honour. He congratulated the Society upon having already 2,000 members spread throughout the civilised world, a number which was being increased at the rate of 300 per annum by those who came up for examinations, and expressed the hope that the Society's operations would be still further extended.

The President, in replying to the toast, said: In rising to respond, on behalf of the Society of Accountants and Auditors, I beg to express, in the first place, my cordial thanks to Sir Thomas Fuller for the kind way in which he has submitted the toast and the whole of the company here present for the manner in which they have honoured it. Twenty-one years is a long span in the career of an individual, and the period is scarcely less important in the life of an organisation such as ours. I am not going to detain you by tracing step by step the different events of our history; and, further, it is not my intention, at a gathering such as this, to deal with the Society's policy. In the address I had the honour of delivering at the opening of our conference yesterday I covered the ground as far as possible in both cases. My duty to-night must be confined to thanking all those who have taken such a cordial interest in the Society's twenty-first anniversary, and have made the first conference of Incorporated Accountants held in London a marked success. Our previous conferences have been held in succession in Birmingham, Manchester, Leeds, Glasgow, Liverpool, and Sheffield, and in every case we have met under the auspices of the chief magistrates of each of these cities. In asking our members to meet in London our first care was to submit our wishes in this respect to our chief guest of to-night and our host of last night—the Lord Mayor—and I am sure that one and all of us, whether belonging to England, Scotland, Ireland

or the Colonies, are deeply grateful to his Lordship and the Lady Mayoress for their kind hospitality, and also to his Lordship for the marked interest he has shown in our proceedings at giving us in succession two nights of his valuable time, upon which such constant and incessant demands are made from all parts of the world. (Applause.) I would now like to say a word of thanks to those bodies of accountants in the British dominions and in the United States who have sent us their good wishes. To the Dominion Association of Chartered Accountants—from whom I have just received a cable—the Ontario Institute of Chartered Accountants, the Transvaal Society of Accountants, and the American Association of Public Accountants, and to Mr. Wilkinson, the late Secretary of the Federation of Societies of Public Accountants (now amalgamated with the American Association), our cordial acknowledgments are especially due, also to our Committees in Australia and South Africa to our branches in Scotland and Ireland, and to our district societies in England and Wales, whose resolutions—in many cases beautifully engrossed and illuminated—were bountifully showered upon us yesterday. My remarks would not be complete on this occasion without one more acknowledgment, and although it comes last it by no means occupies that position in my thoughts—it is to express to Mr. Peat, the President of the Institute of Chartered Accountants in England and Wales, and to Mr. Carter, the President of the Society of Accountants in Edinburgh (the oldest body of Chartered Accountants in the Empire), our appreciation of the spontaneous manner in which they have responded to our wishes to be our guests. (Applause.) This is the third occasion since accountancy began to be organised as a distinct profession that the representatives of all British-speaking accountants are practically associated together under one roof—(hear, hear)—for although unfortunately no American representative is actually here to-night, their good wishes are before us. The first occasion was the Congress of Accountants at St. Louis in 1904, and the second the fiftieth celebration of the incorporation of the Society of Accountants in Edinburgh, which was also held in the same year. Our American and Scottish friends set us examples which it is our desire to emulate, and I and my colleagues of the Council of the Society of Accountants and Auditors look forward to the time when throughout Great Britain and Ireland we can all work together for the common good of the profession to which we owe so much, and whose welfare is the dearest object of our ambitions. (Applause.)

Mr. Alderman Burnett, J.P., next gave the toast of "Trade and Commerce," and expressed the confident belief that for many years trade and commerce in this country would be enabled to maintain the premier position which it had hitherto maintained upon one condition, and one condition only—namely, a fair field and no favour.

Mr. Stanley Machin (Acting Chairman of the Council of

the London Chamber of Commerce), in responding, congratulated the Society upon having attained its majority, and expressed his appreciation of the assistance which the Society had given in affiliation with the Chamber. In his opinion, a Minister of Commerce ought to be appointed in connection with the Government—a man well-skilled in commerce, and in whom a commercial nation could have every confidence. He hoped that this would be an accomplished fact in the near future, and that we might maintain our position as being the first commercial nation of the civilised world.

Mr. C. H. Wilson, J.P., proposed "The Legal Profession," to which his Honour Judge Rentoul, K.C., LL.D., and Mr. H. Atlee (President of the Law Society), responded. The latter alluded to the acknowledged strength of the Society of Accountants and Auditors, and said he was pleased to bear witness to the harmonious relations which existed between the legal and accountancy professions.

Mr. George Cave, K.C., M.P., in submitting the toast of "Other Bodies of Accountants," remarked that the Institute of Chartered Accountants in England and Wales was represented by one who bore a name well-known to every business man in London—Mr. Peat. (Applause.) The other bodies included three Chartered Societies, one of which—the Society of Accountants in Edinburgh—was one of the most ancient Societies in the country; the Institute of Chartered Accountants in Ireland; six bodies of accountants in Canada; eight in Australia and Tasmania; two in New Zealand; and two in South Africa, which was represented that night in the person of Mr. Aiken, who was a member of the Council of the Transvaal Society of Accountants. He (the speaker) was a member of a profession which had just been toasted, and which was constantly in contact with the accountancy profession, and he was bound to say he had been frequently struck with the versatility of that great body. More and more accountants were being called in to deal with business matters, and in municipal corporations the local auditors were assisted and supported by the skill of the Chartered and Incorporated Accountants. The profession had before it a great future, and the greater that future the more important it was that they should be represented, and to some extent controlled, by great bodies of this kind.

Mr. W. B. Peat (President of the Institute of Chartered Accountants in England and Wales) thanked the last speaker for his kindly words of welcome, and the gathering for its enthusiastic reception of those sentiments. It was a great pleasure to him to be present in order to tender his congratulations to the Society upon the success of its attainments, upon the fact that their President was supported by the chief magistrate of the greatest of our cities, by the representatives of our Colonial Empire, by the dignitaries of the Church, by the representatives of our

Colonial home Governments, and by many people of influence whose presence indicated the respect in which they held the Society. He wished to thank Mr. Cave for the kind words he had used in connection with other societies of accountants. There were altogether no less than thirty-eight of them, and for all these it was difficult for one man to reply, as they embraced gentlemen who were practising in every part of our dominions across the seas, as well as in the United Kingdom and Ireland. They were all possessed with one ambition, which was the promotion of the profession to which they all had the honour to belong. There was no horizon which members of their community did not pierce; there was no frontier over which they did not step in peaceful quest of their occupation, and there was no business which they did not touch with advantage and benefit to their clients. He verily believed that the Societies whose health had just been drunk deserved the confidence of the public; at any rate they did their level best to attain it, and, he hoped, with some measure of success. (Applause.)

Mr. F. W. Carter (President of the Society of Accountants in Edinburgh) also replied, and offered his own congratulations and those of the three Chartered Societies in Scotland to the Society, together with their wishes for its success. His own Society in Edinburgh had for the last 52 years continuously endeavoured to raise the standard of education, and the other Societies had done their best to emulate that example. As yet, however, they were far from being in a satisfactory position. They must not rest until they had founded and endowed chairs of accounting and commercial practice in the leading universities. (Applause.) In Scotland many years ago the three Societies joined hands in order to raise the standard of education, and made it compulsory for all young apprentices—as articulated clerks were called in Scotland—to attend law classes at a university. In addition they considered it a necessary part of the education of an accountant to acquire a knowledge of political economy as well as of actuarial science. Until the education of an accountant acquired a university stamp he had no proper claim to rank among the learned professions. (Applause.)

"Our Guests" was proposed by Mr. R. E. Emson and responded to by Mr. G. W. Canham (Master of the Worshipful Company of Cordwainers); and the Rev. Canon Duckworth (Dean of Westminster) proposed the health of the President—a toast which was enthusiastically received.

During the dinner an excellent programme of music was provided by Mr. F. R. Kinke's band.

Personal.

MESSRS. FLINT & THOMPSON, Chartered Accountants, have removed from 105 Colmore Row to Athenæum Chambers, 71 Temple Row, Birmingham.

MESSRS. JOHN McLAREN & Co., Chartered Accountants, announce that they have removed their offices from 66 Finsbury Pavement, E.C., to 150 Leadenhall Street, London, E.C.

MESSRS. HERBERT VIGERS & WALL have removed their offices to 36 & 37 Queen Street, Cheapside, E.C.

MESSRS. H. WILSON & Co. have removed from 37 & 39 Essex Street to 23 Devereux Court, Essex Street, Strand, London, W.C.

Manchester Chartered Accountants Students' Society.

THE opening meeting of the new session was held on October 1st, and took the form of a social evening.

Tea was served at 6 o'clock at the Empire Café, and an adjournment was afterwards made to the Library.

Mr. A. S. Brewis was in the chair, and there were present about one hundred members.

The Chairman apologised for the absence of Mr. F. Halsall, the President, who was unable to attend.

The following members took part in the entertainment:—Messrs. Lees, Platford, and Sparkes, and Mr. Foden Williams gave an excellent entertainment consisting of humorous sketches and songs. The programme was brought to a close by all the members joining in "Auld Lang Syne."

Mr. Brewis proposed a vote of thanks to those gentlemen who had taken part in the entertainment, which was passed with enthusiasm. Mr. Brown proposed a vote of thanks to the Chairman, which was cordially received, and all the members then dispersed.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, Oct. 5th, was 180, :—viz. New Bankruptcy Proceedings published in the *London Gazette*, 91; Deeds of Arrangement registered, 89. The respective numbers in the corresponding week of last year were: Bankruptcies, 92; Deeds of Arrangement, 86—total, 178; being an increase of 2. The total number of commercial failures recorded during the 40 weeks of the present year is 6,421; the total number recorded in the corresponding 40 weeks of last year was 6,823, showing a decrease of 402.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, Oct. 5th, was 167. The number in the corresponding week of last year was 189, showing a decrease of 22. The total

number filed during the 40 weeks of the present year is 5,843; the total number filed in the corresponding 40 weeks of last year was 6,420, showing a decrease of 577.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, Oct. 5th, amounted to £542,855, by way of addition to £1,548,659, previously issued by the same companies. The amount registered in the corresponding week of last year was £994,942, showing a decrease of £452,087. The total amount registered during the 40 weeks of the present year was £63,517,349 (in addition to the issues in previous years by the same companies), as compared with £60,958,466 for the corresponding 40 weeks in 1905, showing an increase of £2,558,883.

The Profession in Scotland.

Will.

An inventory of the estate of the late Archibald Francis Hamilton, Chartered Accountant and Stockbroker, 5 Grosvenor Place, Glasgow, has been lodged with the Sheriff Clerk of Lanarkshire, at Glasgow, and amounts to £11,558.

Aberdeen Society of Accountants.

At a special meeting of the Society of Accountants in Aberdeen, held recently, there was unanimously adopted the following resolution: "The Society records, with sorrow, the death of the last survivor of its original members, Mr. William Milne, which took place at his residence, 40 Albyn Place, Aberdeen, on the 9th ult. Mr. Milne was closely associated with the late Mr. Meston in forming the Society, and has all along taken a keen interest in its affairs. He was President for a period of years, and in many ways helped to further its interests. The Society hereby records not only its high appreciation of the valuable services Mr. Milne rendered it, but also its regard for his kindly disposition and high character."

Incorporated Society of Law Agents in Scotland.

At the twenty-second annual meeting of the Incorporated Society of Law Agents in Scotland, held at Perth on the 4th inst., Councillor Thomas Macpherson, solicitor, Perth, read

a paper on the Solicitors (Scotland) Bill, in the course of which he urged upon the Council of the Incorporated Law Society that no effort should be spared in getting this Bill passed into law, or at least the greater part of it, upon which they were all agreed. Mr. Macpherson made a suggestion to the Council of the desire that a general clause might well be inserted in the Solicitors (Scotland) Bill, making it illegal for a legal firm being styled "& company." The solicitor's qualification was only a personal one, and only the names of existing and living partners should be allowed in a firm's name, and the designative term "& company," which generally covered a nondescript multitude of sins, should be prohibited absolutely. The public had a right to know who the individuals were who constituted the "& company." He specially urged upon the Society to deal with the unqualified legal practitioner.

Bank Rate of Discount.

April 5th 1906	..	..	..	..	..	..	3½%
May 4th "	..	..	..	..	..	..	4%
June 21st "	..	..	..	..	..	..	3½%
Sept. 13th "	..	..	..	..	..	..	4%
Oct. 11th "	..	..	..	..	..	..	5%

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The Accountant

THE RECOGNISED WEEKLY ORGAN OF CHARTERED ACCOUNTANTS

AND

ACCOUNTANCY THROUGHOUT THE WORLD.

VOL. XXXV.—NEW SERIES.—No. 1663.] SATURDAY, OCTOBER 20, 1906. [PRICE 6d. .

Extract from *Auditing*, by LAWRENCE R. DICKSEE, F.C.A.
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EXAMINATIONS.

The next Examinations will be held on the following dates:—

The Intermediate Examination on the 20th and 21st November 1906.

The Final Examination on the 27th 28th, and 29th November 1906.

The Preliminary Examination on the 4th, 5th, and 6th December 1906.

Persons desiring to present themselves for examination must give notice to the Council at least thirty days before the date of the Examinations, at the same time forwarding the examination fee.

Full particulars and forms may be obtained at the office of the Institute, Moorgate Place, London, E.C., and at the various Branch Libraries.

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Leading Articles.

Local Authorities and their Work.

THE paper on "Local Authorities and their Work," read by Mr. PERCY ASHLEY, M.A., before the Chartered Accountants Students' Society of London, and duly reported in our issue of the 8th ult., will be found extremely useful to those of our readers who, without having made any previous study of the subject, may be desirous of now considering it, at least in so far as may be necessary to enable the

various problems raised in connection with the accounts of these bodies to be clearly perceived in their due proportion. It is a recognised rule that no very useful inquiry can be made into the system of accounts most suitable for any particular undertaking without first of all ascertaining the exact nature and constitution of that undertaking, and the class of work that it has to perform. This rule applies with the same force to local authorities as to commercial concerns, and doubtless some of the crude ideas that have been put forward from time to time have resulted, in part at least, from its neglect. Accordingly, a paper dealing in general terms with the nature and constitution of local authorities, and of the work that they have to perform, will be found of no small value.

The report is doubtless somewhat condensed; but, if so, the process has been most ably performed, doubtless by the lecturer himself, and in consequence, even in the form in which we are able to present it to our readers (comprising only four pages of this journal) it deals with the subject in quite sufficient detail to answer what we take to be its most useful purpose, as indicating the nature of these undertakings by way of preface to a study of the system of organisation and accounts best suited to enable their work to be conducted.

Mr. ASHLEY points out that the powers of any local authority must be sought for from four distinct sources—Constituent Acts, General Acts, Adoptive Acts, and Local or Private Acts. And inasmuch as these last-named not infrequently override the others, at all events in part, it will be seen that the question of the precise powers of any particular local authority is one that cannot be answered off-hand, but requires very careful consideration. It may be

added that, when one comes to deal with this point practically—that is to say, in its bearing upon the form of the accounts—it is important to remember that, while several rates are levied in every locality, each for distinctive purposes, those purposes are by no means uniform throughout the country, services which are paid for out of one rate in some parts being chargeable against another rate elsewhere. While those services are controlled by distinct authorities there is, no doubt, a good deal to be said in favour of distinctive rates; but, where they are under the same control, it is difficult to perceive what advantage is gained by the retention of the somewhat complicated system of raising separate rates, that is of sufficient intrinsic importance to justify the continuance of so complicated a process.

The functions of local authorities are also divided by the lecturer under four headings:—Protection of life and property; quasi-essential (including health and education); recreative; and trading. But it is very properly pointed out that if this classification be adopted, the supply of water may sometimes come under the second instead of the fourth heading—that is to say, on account of the sanitary importance of good and plentiful water, it may be thought desirable that the local authority should undertake its supply, even although it can never be expected to produce a profit. But, apart from this obviously exceptional form of municipal “trading,” it may be questioned whether the term, as applied to services which are the monopoly of the local authority, is ever very apt; suggesting, as it undoubtedly does, that the municipality has stepped into the shoes of the capitalist, and will thereafter reap his profits and apply them to the public services. This may at one time have been the general policy

of local authorities, but at the present time at least it is very generally disclaimed. It is now urged that the duty of the local authority is not to make all the profit it can, but rather to supply the best service possible at the minimum charge. It would be beyond the scope of the present article to discuss the reasonableness of this view, but it now represents the attitude generally adopted by municipalities; and, that being so, the expression "trading departments" scarcely describes the nature of the operations sought to be performed. So long as the department is described as trading, or as remunerative or productive, one naturally expects to find it producing some such profit as might in reason have been expected from a similar concern run upon an individualistic basis, and however much such comparisons may be deprecated, they will doubtless continue to be made.

This point is of practical interest for our present purpose, in that it seems to us that it ought to be settled once for all whether or not such comparisons are justifiable, or even practicable. If they be proper, then the accounts of these so-called trading departments should be so framed as to render their comparison with those of individualistic undertakings possible.

When the lecture now before us was originally drafted it was, we understand, framed as introductory to a second carrying the subject further, doubtless upon the lines that we have already suggested. Mr. ASHLEY'S acceptance of an important Government appointment has naturally interfered with this plan, but we understand that arrangements have been made for the delivery, during the ensuing session, of a lecture on the accounts of local authorities by Mr. T. H. CLARE, the

Treasurer of the city of Birmingham, a well-known authority upon the subject, and this will doubtless be welcome news to our readers, especially to those who are members of the London Students' Society.

The Suggested Abolition of Credit.

THE article upon the above subject, which we reproduced from the columns of the *Evening Standard*, upon p. 361 of our issue of the 29th ult., raises in a very interesting form a question that has more than once been referred to in these columns.

Probably the most frequent cause of failure, other than fraud, is excessive losses through bad debts, and having regard to the circumstance that every year some thousands of persons are committed to prison solely because of their inability to pay debts which they had previously contracted, our contemporary raises the question as to whether it would not be in the interests of debtor and creditor alike if the Statute of Limitations were to be modified. It suggests that the creditor's right of action should be confined to a period of twelve months after the creation of the debt, or the last effective acknowledgment thereof. It goes without saying that some step must be taken to remove the existing anomaly under which, while imprisonment for debt is supposed to have been abolished altogether, it should still remain in existence, and is probably in greater force than ever. Bearing in mind the number of failures among small traders owing to excessive losses through bad debts, wholesale dealers would certainly welcome any form of legislation that rendered the reckless giving of credit increasingly difficult, even if it to some extent restricted the

volume of trade. The question that has to be considered, however, is as to whether the reduction of the statutory period of limitation to twelve months would produce the effect sought to be attained, and also as to whether it would produce it without creating evils in an altogether different direction.

In commenting upon the *Evening Standard's* suggestions *The Solicitors' Journal* throws a doubt upon the efficacy of these suggestions, but admits that it would be well for everybody concerned if cash transactions between tradesmen and customers were universal, and credit were dispensed with. It points out that under these circumstances County Courts would get rid of the most tedious and distasteful part of their work. It is sceptical, however, of the beneficial results of a shorter statutory period of limitation. There are, our contemporary says, certain classes of trade and certain classes of society in which the accounts are allowed to run on for more than a year without proceedings being taken, but in such cases the traders are well able to look after themselves, and the customers call for no special interference. In the vast majority of cases, however, and in practically all those cases which result either in the bankruptcy of the shopkeeper or the ultimate imprisonment of the customer, it is thought that the former brings pressure to bear well within the year, and that, therefore, the shortening of the statutory period would effect no practical alteration in existing conditions; while in cases outside this class, where a year's credit is often quite customary, it is thought that a maximum of twelve months would be found both unnecessary and inconveniently short. At the same time *The Solicitors' Journal* is apparently inclined to think that a shortening of the

limitation in contract and tort to two years might possibly be attended with benefit, though it would be necessary to make provision for certain cases where the cause of action accrues without the person injured having any immediate means of discovering it.

Of course, the *Evening Standard* never suggested a limit of twelve months in the case of torts, but if with regard to liabilities arising out of torts a period of twelve months is too short, *a fortiori* is a period of six years quite unnecessarily long, and we entirely agree that a two years' limit would, in such cases, be found a material improvement upon the existing limit. As to contract debts, we think that while the *Evening Standard* was necessarily dealing with the matter in general and quite non-technical language, it is, in the main, quite right in its views, even although naturally they would have to be more clearly and definitely expressed before being made the subject of legislation. A twelve months' limit would in many cases undoubtedly prove all too short; but any legislation that would have the effect of discouraging undue credit, particularly among the poorer classes, would be to the advantage of the community; and it occurs to us that much might be accomplished in this direction upon the lines of a more general application of the principles involved in the Innkeepers' Act, so far as that measure relates to actions for the recovery of debts due by customers. So far as our memory serves us, no innkeeper can recover at law a debt exceeding £20, or more than six months old; and, inasmuch as we have never heard any complaints against this measure, we feel that it may be reasonably assumed that it works well in practice. In these days of special legislation for shop assistants there ought, we should imagine, to be no particular

difficulty in defining with sufficient exactness the class which are ordinarily understood to be covered by the expression "small shopkeeper," and to these the provisions of the Innkeepers' Act might well be applied, and the pecuniary limit might even, we think, be somewhat reduced.

The only possible objection to class legislation of this description would be that the small trader would be prohibited from giving excessive credit while the multiple-shop trader would be free to continue doing so. *Primâ facie* this might appear unfair to the first-named. We very much question, however, in the first place whether he would lose anything by being debarred from the privilege of making bad debts; while, so far as our experience goes, the multiple-shop trader invariably transacts a cash business, and would thus not take advantage of any immunity that the Legislature might afford him. It may, of course, be argued that if legislative restrictions were placed upon the acquisition of the necessities of life upon credit, the impecunious would perforce be driven to money-lenders to enable them to buy what they really required in times of special need. We are inclined to doubt whether much harm would be found to result from this in practice, for it is not a distinguishing feature of money-lenders' methods to advance moneys without security to those who are out of employment, or otherwise impecunious. But in any event the ultimate position could hardly be worse than under present conditions: even then the loss (if any) would fall upon a money-lender rather than upon one of the trading community, while the marked disinclination of County Court Judges to commit to prison money-lenders' debtors would doubtless still continue, and thus the number of such committals might reason-

ably be expected to be reduced even although the credit business were to be merely transferred from traders to financiers, so called.

For our own part, however, we are more hopeful as to the future, for the present deplorable state of affairs arises in the great majority of instances not so much from any sudden failure of supplies as from a gradual and increasing habit of living beyond one's means, which is undoubtedly fostered by the ease with which credit can be obtained even by those who are possessed of no capital. Any form of legislation which threw reasonable, and not unnecessarily excessive, difficulties in the way of obtaining such credit would doubtless conduce to better and financially sounder methods all round; and in the long run, so far from tending to contract the volume of trade, would, we are convinced, produce a gradual increase in the purchasing power of all classes, as the result of an immunity from heavy and undesirable losses by way of bad debts, which would enable prices to be lowered without any corresponding loss of income. Be that as it may, it seems clear that something must be done to check the existing tendencies; and, so far as we are aware, the only practicable suggestion on the subject is that for which the *Evening Standard* is responsible.

The Association of Chambers of Commerce.

THERE was a full gathering of the Association of Chambers of Commerce of the United Kingdom at Bristol, under the presidency of Sir WILLIAM H. HOLLAND, M.P., when several resolutions, which by this time may almost be regarded as annual events, were duly passed. Among those most likely to prove of interest to our readers were th

following:—A resolution proposed by Mr. H. HURRELL, expressing the opinion that bankers should be required by law to send notices half-yearly to holders of deposit notes of the amounts remaining on deposit—a suggestion that would undoubtedly prove a convenience to many, and could harm no one except those banks which rely upon unclaimed deposits to inflate Secret Reserves. A resolution was also proposed by Mr. A. M. SCARFF, regretting that nothing was done by the Departmental Committee on Income Tax with a view to removing any of the numerous anomalies in the law and practice as they now exist which are so fruitful of dissatisfaction and injustice, and expressing the opinion that the time has now arrived when the whole of the Income Tax Acts should be reconsidered and codified. We do not quite understand what the Departmental Committee referred to was expected to do, beyond reporting on the evidence produced before it; but it is only natural that the obviously official bias that runs through this Report should be resented by a community of business men, and in view of the fact that income-tax must now undoubtedly be regarded as a permanent impost, the argument in favour of the codification and reconsideration of the various provisions, which were quite sufficiently adequate as a temporary expedient, is certainly well justified by the circumstances.

Mr. CHARLES CHARLETON proposed a resolution on the subject of the disfranchisement of limited companies; but apparently stopped short of carrying his suggestion to its logical conclusion, thus leaving it in a maimed state, where it remains at the mercy of all opponents. It may well be argued that it is quite unnecessary that a company, as such, should be possessed of voting power, seeing that each of

its various members already possesses a vote as an individual. If the analogy is worth anything at all it should, we think, be carried to its legitimate conclusion, and a vote should be claimed in the district of the registered office or other place of business of the company for every member upon its register, on the principle that such members are but partners, and should thus possess the same privileges of dual voting as partners in private firms. There might be a good deal of difficulty in making out a strong case upon these lines, but there seems to us far more difficulty in finding arguments in favour of the middle course of treating each company as a separate individual entitled to its own vote.

A motion on company law amendment was also moved by Mr. F. FAITHFULL BEGG, of London, but although quite harmless in itself it seems to us that this was uncalled for in view of the fact that the subject is already being considered by the Board of Trade, and will apparently be brought before Parliament in the near future. In the case of a resolution expressing approval of the Prevention of Corruption Bill the motion was withdrawn at the suggestion of the President in view of the fact that the Bill had become an Act. One cannot, of course, go quite so far with regard to the Companies Acts, but we have at least an amended Table A, and the assurance of legislation at an early date, in the face of which it is, we think, desirable to avoid the appearance of undue impatience.

Weekly Notes.

Municipal Capital Expenditure. The Local Government Board auditor has, we understand, surcharged the Mayor of Dover £401 as being the interest borrowed to purchase certain school buildings because the money was borrowed before the consent of

the Board was received. Of course, when the Legislature provides that no local authority shall raise loans without first obtaining the sanction of the Local Government Board, the authority of the department must be vindicated unless all financial control is to be lost; but, on the other hand, if the rule is to be interpreted strictly, and all charges in respect of interest on temporary loans are to be surcharged, no matter how urgent the occasion, it is clearly not merely equitable, but also necessary, in the interests of good government, that the decision of the Local Government Board should be promptly given whenever application for a loan is made. In the case under review, we understand that it was nine months before the Board gave its consent to the application to borrow, and that in the meantime the acquisition of the schools had been approved by the Education Department and was absolutely necessary to enable the requirements of the situation to be met. That being so, we doubt not that in the ordinary course—that is to say, after the requisite expenditure of red-tape and the usual amount of wrangling—the surcharge will be graciously remitted. Such an action will remove the first and most obvious injustice, but it does not do away with the fundamental ground for complaint—namely, that the Government Department whose duty it is to supervise the expenditure of local authorities is so dilatory in its methods that of necessity expenditure has frequently to be incurred beforehand and the requisite permission obtained afterwards. In the nature of things no efficient system of control can obtain while such methods continue.

**Board of Trade
Returns and
Classification.**

For some little time since there have been complaints of the manner in which the classification of the articles dealt with in our monthly Board of Trade returns is carried out. Attention has been particularly directed to the failure to discriminate between partly-manufactured goods which are almost ready for consumption and those which but slightly differ from raw material. It is said to be absurd that our statistics should include among the "wholly or mainly manufactured articles" such things as pig-iron, pig-lead, ingot tin, crude zinc, and rabbit skins, which are useless unless they pass through some process of manufacture or are utilised in the course of such process. *The Financial News*, in a recent article, expresses a hope that the Statistical Department of the Board of Trade will not overlook the new classification adopted by the United States' Department of Commerce. The principal point to

which our contemporary directs attention—and we think the point is one which really merits attention—is that, while our second and third classes embrace "raw materials and articles mainly unmanufactured," and "articles wholly or mainly manufactured," the Washington authorities provide a further class which is very badly wanted in our own returns. Their classes are, "crude materials for use in manufacturing," "manufactures for further use in manufacturing," and "manufactures ready for consumption." It will be noticed that a re-grouping is practically all that the Washington Department has undertaken, and since the splitting of the misleading "articles wholly or mainly manufactured" is so small a matter, and would improve our returns so much, there may possibly be some chance of the suggestion made by our contemporary being adopted.

**Should the Law
Deal with
Spendthrifts?**

The Law Journal says that the suggestion made by the President of the Law Society, that the Courts should have power to deprive spendthrifts of the capacity for dealing with their property, merits careful attention. We are told that in many countries such a power is capable of being exercised; for instance, in France a *prodigue* can be prohibited from going to law, from borrowing or receiving money, or from alienating or encumbering his property without the assistance of a counsel appointed by the Tribunal of First Instance. The family council, which has also been suggested, is likewise a well-known institution abroad. In France it is summoned by the Juge de Paix, consists of six relatives, has power to appoint guardians for orphan children, and must be convened to give its opinion to the Court on the condition of an alleged lunatic or prodigal. After receiving the opinion of the family council, the Court examines in private the person whom it is sought to restrain from dealing with his property, and it gives judgment after hearing the conclusions of the Public Prosecutor.

**The Durham and
Yorkshire Fire
Insurance
Company, Lim.**

The accounts of the Durham and Yorkshire Fire Insurance Company, Lim., for the year ended the 31st August last have been forwarded to us for comment. These, while presenting no very special features, show a very satisfactory result upon the year's working, permitting the payment of a dividend at the rate of 10 per cent. per annum, free of income-tax, and the carrying to Reserve of an amount nearly four times

large. Fire losses have only amounted to 8 per cent. on the premium income, but the working expenses come to 42 per cent.

**The British
Weights and
Measures
Association.**

We have from time to time devoted so much space to the discussion of the metric system and decimal coinage, that we think it only fair to draw attention to the second annual report of the British Weights and Measures Association that has recently been issued. The object of this Association is to voice the other side, and especially to draw attention to the practical objections that, it is thought, will attend any alteration of existing standards. That these objections are by no means imaginary is, it is alleged, shown by the fact that the metric system has for many years been legal in this country, but yet is never used—a circumstance which certainly lends colour to the argument that it obviously cannot be all that its advocates paint it. It is at least worthy of note that at the Universal Postal Congress it was decided that, after the 1st October, the one ounce weight should be substituted for the 20 grammes, a circumstance which suggests that there is still a good deal of life in the old-fashioned British weights and measures. On the other hand the announcement, made a few days since, that Kynoch's, Lim., intended to adopt the metric system for weights, measures, and coinage seems to somewhat upset the balance of the argument.

The Question of Time in Bombay. The Corporation of Bombay still persist in adhering to local time, while all the commercial associations have adopted standard time. It is reported that two local merchants have fallen foul of one another on this point. They had entered into a forward contract for one hundred bales of cotton, and the delivery order was tendered at a quarter past twelve (local time), but the purchaser refused acceptance, claiming that it was a quarter of an hour late. The matter ultimately came before the Chief Judge of the Small Causes Court, who held that the tender was actually in advance of the hour according to the rule of the Bombay Cotton Trade Association, which has adopted standard time. A contemporary neatly says, "Those who pay the piper have the right to fix the time."

American Railway Fares. It is reported that 2 cent a mile mileage tickets are now being issued by the Pennsylvania Railroad. The books of tickets,

available for 1,000 miles, are transferable, and are not confined to any particular train. Other roads are following suit, it is said, and this victory of the cheap fare advocates will doubtless be popular in the States, while the system of issuing tickets in books is one that merits consideration in this country. Something similar is, we believe, already in vogue on the North Eastern Railway.

Share Transfers and Firm Names. The following notice was posted in the Stock Exchange last week:—

"The attention of the Committee for General Purposes has been directed to the practice which has recently become more common for English companies to accept deeds of transfer of shares or stock into the name of firms instead of the old practice whereby securities were registered in one or more individual names.

The Committee are of opinion that this practice, except in cases of firms registered under the Limited Liability Acts, is a dangerous one, and they have on more than one occasion ruled as a bad delivery the transfer out of the name of a firm signed as a firm, even though such transfer would be accepted for registration by the company in question.

As these decisions may not be generally known, the Committee consider it desirable to notify their effect to the House."

Company secretaries usually insist on the names of individuals being inserted as transferees, although we do not know of any *legal* objection to firm names being employed. Some difficulty might arise with regard to dissolution, and it has been suggested that the signatures of actual persons act as a safeguard against fraud, although we fear there is not much weight in the argument. We shall be glad to hear from any of our readers who have met with difficulties on the point in actual practice.

The Extension of Land Transfer Regulations. Comment has been made on the fact that the President of the Law Society in his address at the recent provincial meeting did not refer to the expressed intention of the Land Registry to extend its operations all over England. The inconvenience which compulsory registration has imposed on the transfer of land in London has occasioned much criticism, and Mr. Attlee, in excusing his omission to deal with the point, explained that it was due to the fact that the use of adjectives with regard to the proposal was inexpedient, since it was probable that he would have to negotiate with the

Lord Chancellor. A legal contemporary says that the reasons which exist against the proposal are so strong that they need no adjectives, and nothing more was required than a calm and temperate statement of them. A general doubt is expressed, seeing that the profession is unanimous in desiring to prevent the extension of compulsory registration, as to whether the course pursued by the President was well advised.

Rating Last week, after a long and interesting **Unification.** debate, the City Corporation decided to promote a Bill in Parliament for the amalgamation of the 112 City parishes, to give the Corporation the powers of Overseers, and to be the sole authority for collecting rates in the City. We referred to the matter in these columns when it was in the suggestion stage a week or two ago.

The Possibilities Some idea of the extent that some of **of Speculation in** the operators on the cotton market **Cotton.** stand to lose at the settlement, through the scare over a scarcity of the raw article, may be gathered from the fact that a rise of one point on a hundred bales—the lowest amount traded in—means a loss of £2. A rise of 75 points (which actually took place a week or two ago) would entail, therefore, a loss of £150.

The Society of In our last issue we were able to place **Accountants and** before our readers a full report of **Auditors.** the proceedings commemorating the twenty-first anniversary of the foundation and incorporation of the Society of Accountants and Auditors. We shall deal editorially with the various points of interest arising out of these proceedings in our next and following issues. In our report of the proceedings the name of the first President of the Dominion Association of Chartered Accountants should have been given as Mr. John Hyde (Montreal). In addition to the extract from Mr. Hyde's letter sent to the delegate of the Ontario Institute and read at the meeting, we are asked to add the statement read from the letter covering the resolution of the Institute of Chartered Accountants of Ontario, and written by the Institute's Secretary, Mr. David Hoskins (Toronto): "My 'Council appreciates every opportunity which presents 'itself to the end that a closer understanding may 'exist on the part of professional accountants in the 'mother country' and the Colonies."

Municipal Mr. Dixon H. Davies read an interest- **Trading.** ing paper, entitled "On Certain Unconstitutional Tendencies of the Local Government," at the recent provincial meeting of the Law Society. After dealing with the opposition offered by the London County Council last session to the Power Bill, Mr. Davies said that the corporations finding it impossible to place their stocks were now making Bill issues; but the Corporation Bill had an opposite effect to that exercised by the Mercantile Bill, for it was used not for floating over a temporary occasion, but to put off the meeting of a permanent liability. After touching upon the non-voting powers of companies, he contended that the local authorities were no longer content with the rôle of decentralised executives. He thought the following reforms would impose a national and constitutional check upon the policy of expansion, and would gradually reduce and ultimately abolish the communistic trading which, in his opinion, had been the occasion of all the mischief. (1) Let the House of Commons assume the control of the local finances, which have a national as well as a local bearing, for the reason that the local authorities in effect pledged the national credit, therefore it should be expected that the Secretary of the Local Government Board should make his statement to the Committee of Ways and Means on the local finances, just as the Chancellor of the Exchequer on the national, and the local appropriation should be passed in the same Committee. (2) Whenever capital is proposed to be raised by loan in any town there should be a special borough meeting at which all ratepayers should be entitled to vote whether company or otherwise, on the principle of one vote, one value. At such meetings no municipal employee should vote. (3) The Trustee Act, which renders the securities of all towns available for trust investment, should be amended so as to exclude from that privilege the proportion of any debt which should be in excess of two years' assessable value. (4) The municipal accounts should be subjected to audit by experienced commercial accountants, who should exhibit a true and intelligible account of each department separately. Commenting upon this paper *The Municipal Journal* suggests that Mr. Davies should deal on the same lines with "the unconstitutional tendencies of power supply companies." And it is said to be an extraordinary fact that bodies which are so brilliantly successful in carrying out drainage and improvement works should miserably fail when they attempt the construction of tramways.

contemporary thinks that with regard to the suggested reforms the doctor would cure his patient by starving him. The following paragraph practically sums up this official criticism: "Of course, Mr. Davies does not really mean what he says. He would be just as well satisfied if Parliament were to pass a short Bill ordering the sale of all municipal trading concerns to private companies, and forbidding the local authorities to ever touch those gold mines again. If the instructions were to give instead of to sell, so much the better." Our contemporary will have its little joke, but, for our part, the responsibilities of local government strike us as being a poor subject for cheap humour.

**The Bristol
Ratepayers'
Protection
Association.**

A ratepayers' meeting was held at Bristol, under the auspices of the Ratepayers' Protection Association, on the 9th inst., at which one of the hon. secretaries indulged in a somewhat inconsequential attack upon the financial methods of the corporation, and particularly of the Electricity Department. This gentleman appears to have chosen as the text of his attack the ruling of the Local Government Board Inspector, to which we referred a short time since, that wages paid to permanent employees engaged upon capital construction must not, under any circumstances, be treated as capital expenditure. It is not altogether clear why an association which apparently aims at reducing the current rates should applaud a ruling which, if upheld, must have the effect of making the present generation pay a considerable sum which, upon every principle of sound finance, may properly be capitalised; but, of course, it goes without saying that if ratepayers' protection associations were conducted by those entitled to speak with authority on questions of account, their opinions would be of far greater weight than is at present the case, and it is therefore perhaps unnecessary to regard this matter too seriously. At the same time, it certainly does seem a little hard upon Bristol—which for many years past has gone out of its way to employ Chartered Accountants as auditors, and which has recently adopted the exceptional and entirely commendable course of calling in two of the leading authorities to advise on the proper treatment of depreciation in its Electrical Accounts—to be singled out for inconsequential abuse of this description, which is the more ridiculous in that the one remedy that the Ratepayers' Protection Association seems to be able to offer is that the Local Government Board should be

petitioned at an early date to appoint Government auditors to review all city expenditure. It has yet to be shown when (if ever) the appointment of a Government auditor had the effect of reducing rates; but it would not be difficult to advance instances in support of the assertion that the methods of accounting hitherto advocated by the Local Government Board for local authorities are radically unsound, and have directly produced most of those features that are reasonably open to adverse criticism.

**A Secretary
and Auditor.**

According to the *City Press*, a Mr. Foster, described as an accountant, recently sued Messrs. W. H. Smith & Co. (London), Lim., for £40 13s. 4d. salary due as secretary of the company, or in the alternative for professional services rendered as an auditor and accountant, and in the result the jury found in his favour for the full amount claimed. It is, of course, quite possible that the report before us is not sufficiently complete to afford any very clear idea as to the facts, but *prima facie* it would appear to us that a claim for money due as secretary's salary or in the alternative as auditor's fees must be bad, in view of Section 21 (3) of the Companies Act, 1900, which provides that a director or officer of the company shall not be capable of being appointed auditor of the company. From this it would seem to follow that the appointment of anyone as secretary and auditor must, of necessity, be *ultra vires* the company; and, if *ultra vires*, the company would, it seems to us, not be bound by the resolution making the appointment. We presume, however, that the probable explanation is that the plaintiff claimed remuneration either as secretary or as secretary *pro tem*, and the question of audit had really nothing to do with the case.

**Income-Tax
Surveyors and
Balance Sheets.**

In reply to our correspondent "Income Tax," Surveyors of Taxes have no statutory right to require companies to submit their Balance Sheets for inspection; but a refusal to submit such Balance Sheets may, we think, be reasonably interpreted as a ground for suspicion as to the accuracy of the return made, in which event naturally difficulties would be experienced in settling the assessment. For our own part, we can see no possible objection to such Balance Sheets being supplied to the Surveyor of Taxes even in the case of a so-called private limited company, more especially bearing in mind that they would naturally be so summarised as to

give no information which, under any circumstances, would be likely to damage the company. We believe that the reason why companies' Balance Sheets are almost invariably asked for is because it is found that the amount of income-tax deducted from debenture interest is by no means always duly accounted for.

**The Chartered
Institute of
Secretaries.**

The annual gathering of the Manchester and District Society of Chartered Secretaries was held at the Albion Hotel, Manchester, on the 9th inst., Mr. Laurence Clay presiding in the enforced absence of Sir Frank Forbes Adam, the Society's President. About sixty members and their friends were present, and in the course of his speech Mr. Clay mentioned that the District Society was working in conjunction with the Victoria University.

**Points
in Company
Practice.**

While we are by no means desirous of stifling the discussion invited by our correspondent "A.S.A.A." upon the points enumerated in his letter which we reproduced last week, we should like to point out to him, as we have frequently in the past to other of our correspondents, that it is not possible to express any useful opinion upon the question of what is and what is not irregular in company practice without having before one the articles of association, which (subject to the Companies Acts) determine the whole matter. Speaking generally, however, we may point out that a resolution passed by a company in general meeting, and declared by the chairman of that meeting to be carried, is at all events effective until the Court has otherwise ordered; but if the meeting has been irregularly convened, or if persons who are in point of fact not members have voted in favour of such resolutions, it is quite likely that the Court would, if called upon, grant an injunction restraining the company from acting on the resolution attacked. In the meantime matters appear to be somewhat at a deadlock, inasmuch as the liquidator appointed by the A. Company can apparently do nothing to make the B. Company acknowledge his title to the shares without having recourse to legal proceedings; while should he decide to adopt that course he would doubtless be met by a plea that his appointment was invalid. We cannot help thinking the Court would be bound to sustain this plea in the circumstances stated, assuming the articles of association of the company to be at all normal.

The 5 per cent. Bank Rate. The rise in the Bank rate last week from 4 per cent. to 5 per cent.

occasioned no surprise in monetary circles, for it had for some little time past been evident that more drastic steps would be necessary to stop the drain upon the gold reserve caused chiefly by undue speculation in the States. It is noteworthy, however, that one has to go back to the beginning of the present century for a 5 per cent. rate, and in view of the unprecedentedly low price of gilt-edged securities, the continued scarcity of money cannot be altogether regarded with equanimity. There is reason to believe, however, that the conditions are already somewhat steadier than a week ago, and although some inconvenience may be experienced in this country while the present high rates obtain, it is perhaps a satisfaction to know that far greater inconveniences are likely to result in the States from the stop which has thus been put upon what seems to have virtually amounted to the free export of gold from this country.

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinions expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Poor Rate Assessment.

(To the Editor of The Accountant.)

SIR,—The various opinions expressed by your correspondents as to the above are interesting, but are they not ignoring the original question? In your issue of the 22nd September last your correspondent "B." clearly states that in this particular case the water rate is to be included, and does not inquire whether a water rate should be included. Therefore I consider that, as regards this particular proposition, those of your correspondents who took the water rate into account in their calculations were correct in so doing.

I might mention that the Assessment Committee of this town calculate the assessments of small property

by a table, based on the annual rates, including the water rate, being 9s. in the £.

I am, yours faithfully,

A. JAMES PEARCE, A.C.A.

Ipswich, October 13th 1906.

(To the Editor of The Accountant.)

SIR,—Your correspondent "Midlands" is entirely wrong in his assumption that I have changed my opinion at all on this matter. In my first letter to you on the subject I made an *error in calculation*, which I afterwards amended; surely, that does not amount to a change of opinion!

The real point at issue appears to be, as to whether deduction should be allowed for water rent, and on this point I adhere to what I stated in both my previous letters, that the usual practice is to allow deduction therefor, and I submit that "Midlands" is wrong in his contention that no deduction should be made.

As to the case which "Midlands" quotes in support of his contention, Mr. Walter Ryde (after stating that where the rent includes water rate a deduction should be made) goes on to say "the case of *Reg. v. Bilston* is "at first sight a decision to the contrary, but the "Sessions had found out what was the gross estimated "rental . . . and the only question was, whether "the water rate was an expense necessary to maintain "the hereditament . . ."

Mr. A. F. Jenkin, referring to the same case, says: "The former of these cases (*Reg. v. Bilston*) is sometimes "misunderstood, but, properly understood, it *clearly* "supports the statement in the text" which is to the effect that "where the landlord pays the water rate, the "amount of the water rate should be deducted from the "rent in ascertaining the gross estimated rental."

Yours truly,

F. S. ECKERSLEY.

St. Anne's-on-the-Sea, 13th October 1906.

(To the Editor of The Accountant.)

SIR,—The decision given in 1865 in the case of *Reg. v. Bilston* (L.R. 1 Q.B. 18), quoted by your correspondent "Midlands" in his letter inserted in your issue of the 13th inst., may still be, as he says it is, good law, but it does not, it seems, warrant the interpretation which he appears to put upon it.

In reference to the statement that water rate or water rent *should be deducted* in calculating the rateable value (where the rent paid by a tenant includes water or water rent), Mr. W. C. Ryde, Barrister-at-Law,

in his work on "The Law and Practice of Rating," published in 1900, says:—"The case of *Reg. v. Bilston* "(L.R. 1 Q.B. 18) is at first sight a decision to the "contrary; but the Sessions had found what was the "gross estimated rental of a house, and the only ques- "tion for the Queen's Bench was whether the water "rate was an expense necessary to maintain the "hereditament, which it clearly was not"; and Mr. A. F. Jenkin, Barrister-at-Law, in his "Manual for Overseers," published in 1906, says that the same case (*Reg. v. Bilston*) "is sometimes misunderstood, but, "properly understood, clearly supports the statement "in the text" that, "where the landlord pays water "rate, the amount of the water rate should be deducted "from the rent in ascertaining the gross estimated "rental."

It therefore seems to be clear that the views of your correspondents—Messrs. J. H. Rogers and "G. W."—are not the correct ones; and possibly your correspondent "Midlands" may now "have very little difficulty in changing his opinion on the above subject."

Yours faithfully,

JAMES GIBSON.

Barnsley, 15th October 1906.

Income Tax and Publicans.

(To the Editor of The Accountant.)

SIR,—With reference to the assessments of publicans who are tenants of free houses, are they entitled to charge the full amount of the rent paid to the landlord against the profit on trade? The facts in point are: the rent is £450 per annum, and the rateable value for poor law assessment is £360. The Commissioners for Inland Revenue are only prepared to allow £300 to be charged against profit.

I should be pleased to have the opinion of your readers on the subject.

Yours truly,

TENANT.

October 11th 1906.

[Publicans have no exceptional privileges in the matter of income-tax assessment.—ED. ACCT.]

Debenture-holders and Apprentices.

(To the Editor of The Accountant.)

SIR,—In your issue of the 15th ult. you say:—"Apparently therefore, in the case referred to, the "apprentices must rank as unsecured creditors . . ."

But is not the apprentice entitled to be paid, in accordance with Section 41, in priority to the unsecured

creditors out of any surplus remaining after payment of the mortgage debentures?

The Act of 1897 does not apparently take away the apprentice's rights under Section 41, but excludes him from the benefits granted to creditors under the Act of 1888.

Yours truly,

12th October 1906.

G. F. C.

[Will our correspondent kindly state why he contends that Section 41 of the Bankruptcy Act, 1883, applies to companies wound up under the Companies Acts, 1862 to 1900?—ED. ACCT.]

The Birmingham Small Arms Co., Lim., and Secret Reserves.

(To the Editor of The Accountant.)

SIR,—My attention has been called to an article appearing in your issue of Saturday last, under the heading of "Secret Reserves," in which you refer to the accounts of the Birmingham Small Arms Company, Lim., and the annual meeting recently held.

Among other inaccuracies, you state that the profits of the company amounted to £7,412, whereas the printed accounts and published reports of the company's meeting would have shown you that the profits were £74,112.

I am not concerned with your academic discussion of the question of "Internal Reserve," but your criticisms, so far as this company is concerned, can have little value when based on so serious a mistake.

I shall be glad to know that you have not only inserted this letter, but corrected, with prominence equal to that given to your previous article, the erroneous deductions in that article based on the mistake referred to.

Yours truly,

FOR THE BIRMINGHAM SMALL ARMS COMPANY, LIM.

KENNETH R. DAVIS.

16th October 1906.

Secretary.

[We have pleasure in inserting this letter, and regret that, in accepting without confirmation the figures quoted by a contemporary, we should have fallen into error.—ED. ACCT.]

Company Law in Arizona.

(To the Editor of The Accountant.)

SIR,—Could you kindly let me know, through the medium of your valuable paper, if a person who holds shares in a mining company in Arizona, South

America, which are fully paid-up, can be called upon to pay any more in the event of the failure of the company: the prospectus states that the company is "incorporated under the laws of Arizona, and carrying no personal liability to the holders of shares." I shall be glad to know if the above is correct, and if you can give me any idea of the laws which govern such companies in the place named?

Yours, &c.,

16th October 1906.

INQUIRER.

Check Figure System.

(To the Editor of The Accountant.)

SIR,—I notice that the systems given in your recent issues are all similar in character and based on the elimination of the figure 13. The following system which I have worked out, based on the well-known method of "casting out the nines," will, I think, be found much simpler and quicker.

The principle of casting out the nines, I may remind you, consists of treating all figures, wherever found, as units, and adding them, dropping nines wherever found or produced—thus the check figure for 1,379 is 2, as $1 + 3 + 7 = 11$, and $1 + 1$ is 2. In simple addition the process will be thus:

1,379	check figure 2
14	" 5
216	" —
1,609	" 7

To use this with pounds, shillings, and pence, we must in effect reduce all to pence; in practice it is much simpler, as we need only reduce the check figure, and can multiply by 2 instead of 20, and by 3 (or $1 + 2$) instead of 12. The check figure for, say, £375 17s. 8d. will be 5, obtained as follows:

Pounds	$3 + 7 + 5 = 15 = 6$
Shillings	$6 \times 2 = 12 = 3 + 17 = 20 = 2$
Pence	$2 \times 3 = 6 + 8 = 14 = 5$

To check additions of money, the check figures for each sum must be added and the nines eliminated, the resulting figure being the check figure for the total of money. Thus:

£	s	d	
375	6	1	check figure 1
17	8	3	" 3
1,769	14	2	" 2
Total	£2,162	8 6	" 6

With a little practice it will be found that the brain recognises and drops the nines very quickly, and the

check figure is quite easily obtained. Thus any multiple of 3 in the pounds or shillings may be dropped at once.

The principle is also applicable to subtraction.

£	s	d	
Thus 1,768	14	1	check figure 1 add 9 = 10
Less 672	3	4	" 4
£1,096	10	9	" 6

It will, however, be more useful in multiplication or division.

	£	s	d	
Thus	37	14	8	check figure 2
multiplied by		584		" 8
gives	£21,931	5	4	" 16 = 7 check figure

and £45,276 18s. 3d. divided by 365 gives £124 os. 11d. and 44 pence over; follow ordinary proof by reversing process, *i.e.*—

£45,276 18	3 = 365 × £124	0 11 + 44d.
check figures	3 = 5 × 8	+ 8
	= 40 + 8 = 12 = 3	

I am not acquainted with any of the advertised systems, but there seems to be no reason for paying fancy prices while the old methods of our schooldays will still provide us with such easy checks, in return for the little trouble of working them out.

Yours faithfully,

ALFRED R. NORMAN, A.C.A.

London, 17th October 1906.

Sheffield Chartered Accountants Students' Society.

(Affiliated with the Union of Chartered Accountant Student Societies).

Autumn Session, 1906.

President—Mr. S. Taylor Gill, F.C.A.

Vice-President—Mr. F. H. Metcalfe, F.C.A.

Honorary Secretary—Mr. Bertram C. Davies (Messrs. Macredie & Evans, Orchard Chambers, Church Street, Sheffield).

Oct. 10.—Inaugural Dinner, King's Head Hotel, at 7 p.m.

„ 17.—Lecture, "The Elements of Profit-Sharing applied to Commercial Ventures." Mr. A. F. Dodd, F.C.A., of London.

Oct. 26.—Joint Debate with Liverpool Chartered Accountants Students' Association, at Liverpool. Subject, "That it is both desirable and necessary for the existing Income-Tax Procedure to be amended as follows:—

- The application of three years' average system to all classes of income.
- The allowance for depreciation to be a compulsory instead of a discretionary deduction, and to be calculated at uniform rates upon original values.
- The certification by qualified accountants of all returns exceeding £500.

(Arranged by the Union of Chartered Accountant Student Societies, and to be attended by selected representatives from the Sheffield Society.)

„ 31.—The Prize Essay will be read by Mr. Stewart Green on "The Difference in Constitution and Relative Advantages of Private Firms and Limited Companies, and the Matters of Account involved by a Conversion." The Discussion afterwards will be opened by Mr. Pepper, winner of the second prize.

Nov. 14.—Lecture, "The Law as to Partnership." Mr. L. J. Kirkham, Solicitor, Sheffield.

„ 28.—Lecture, "Further Notes on the Criticism of Accounts." Mr. W. R. Hamilton, F.C.A., of Nottingham.

Dec. 12.—Joint Debate with the Nottingham Chartered Accountants Students' Society, at Sheffield. Subject as above.

(Arranged by the Union of Chartered Accountant Student Societies, and to be attended by selected representatives from the Nottingham Society.)

All lectures, debates, &c., will be held in the Library, Hoole's Chambers, Bank Street, Sheffield, at 6.45 p.m., unless notice be given to the contrary.

Each lecture will be followed by a discussion, in which all members present are particularly requested to take part.

The transactions of the Society are published monthly in *The Accountants' Journal*, which paper is supplied to all members free of charge.

Accountancy and Law Classes are held on Saturday mornings, and Junior Classes on Monday evenings, at the Library, Bank Street, particulars of which may be obtained from Mr. H. E. P. Beard, Hoole's Chambers, Bank Street, Sheffield.

The Lending Library is open to the use of all members of the Society.

Subscriptions are due in advance on the 1st May in each year.

The "Robert Fletcher Prize"

will be offered for competition by the Institute at the forthcoming Intermediate Examination to be held in November 1906.

Particulars and rules are affixed to the Notice Board in the Library.

All information respecting the Society may be obtained from the Hon. Secretary.

THE UNION OF CHARTERED ACCOUNTANT STUDENT SOCIETIES.

Essay Competition, 1906-7.

The subject this year is "The Uses and Limitations of the Card, Loose-Leaf Ledgers, and Slip Systems in Relation to Matters of Account."

The Committee of the Union offer the following prizes:—

First Prize	..	..	..	Five Guineas,
Second Prize	..	..	..	Two Guineas,
Third Prize	..	..	..	One Guinea,

for the best three essays on the above subject.

In addition to the above, Mr. T. G. Shuttleworth has offered the following prizes:—

To any member winning the first prize	£	s	d
" " " and or 3rd prize	..	2	2
" " " and or 3rd prize	..	1	1

And the Committee offer the sum of £2 2s. to any member who takes any prize in the competition.

(For Rules see *The Accountant*, October 6th, page 386).

The Bristol Chartered Accountants Students' Society.

Syllabus—Session 1906-7.

President—Mr. W. Vaughan Jenkins, F.C.A.

Hon. Secretary—Mr. C. F. A. Greenslade (with Messrs. Curtis, Jenkins & Co., Exchange, Bristol).

1906

Oct. 19 (Friday).—President's Address and Short Papers by members.

.. 31 (Wed.).—Joint Debate with the London Students' Society in London.—Subject, "Income Tax: That it is both desirable and necessary for the existing Income Tax procedure to be amended as follows:—

- The application of three years' averages systems to all classes of income.
- The allowance for Depreciation to be a compulsory instead of a discretionary deduction, and to be calculated at uniform rates upon original values.
- The certification by qualified accountants of all returns exceeding £500."

Nov. 9 (Friday).—Lecture, Mr. Tinsley Lindley, LL.D., "Law of Agency and Bailments."

.. 21 (Wed.).—Lecture, Mr. W. H. Fox, F.C.A., "Percentage Statements of Cost as applied to various Businesses."

1907

Jan. 23 (Wed.).—Joint Debate with the Birmingham Students' Society in Bristol.—Subject, "Income Tax" (as above).

Feb. 22 (Friday).—Lecture, Mr. A. F. Dodd, F.C.A., "The Preparation of Accountants' Certificates for Purposes of Joint Stock Companies' Flotations."

Mar. 20 (Wed.).—Lecture, Mr. M. Webster Jenkinson, A.C.A., "The Accounts of Professional Men."

All lectures and debates will commence at 5.30 p.m., and will be held at the Library of the Society, Messrs. Tribe, Clarke & Co., Albion Chambers, Bristol.

The attention of members is directed to the new rule governing the issue of books from the Library:—

"That in future the Library will be open for the issue and return of books from 10.30 to 11.30 on Saturday mornings (or, when lectures are in progress, at the end of the same.)"

Classes for students are held each Saturday morning in the Library:—

Accountancy Classes—Seniors, 10 o'clock; Juniors, 11 o'clock; lecturer, Mr. A. E. Ashmead, A.C.A.

Law Classes—10.30 o'clock to 12 o'clock; lecturer, Mr. G. H. Boucher.

The Law and Accountancy Classes are held alternatively.

The Queensland Institute of Accountants

(INCORPORATED).

THE fifteenth annual general meeting of the members of the Institute was held at the Registered Office, 282 Queen Street, Brisbane, on Thursday, the 5th April 1906.

The following are the

REPORT AND ACCOUNTS.

Your Council have pleasure in submitting the fifteenth annual report of the Institute, together with the accounts for the past year, duly audited.

In submitting the Statement of Accounts your Council would point out that, whilst they see no cause for anxiety as to the financial stability of the Institute, they consider that still further alteration with regard to the conduct of the business of the Institute must be adopted either in the direction of a more rigid economy or an increase in membership subscription, in order that the finances of the Institute may be placed in a more satisfactory position, and

so that a small annual surplus may result instead of the continued annual deficit.

During the year under review Messrs. Alfred Edward Driver, Frank Reimers, and Roy Græme Groom were raised from the Associate degree to that of Fellow.

I regret to say that negotiations with regard to the establishment of the proposed Australian Institute of Accountants have been abandoned, the various Institutes concerned being unable to agree to the constitution submitted.

An affiliation of the Institutes has been renewed by some of the Southern Institutes on a different basis to that previously existing and in which our Institute shared. Your Council did not consider it advisable in the interests of this Institute to join in the new scheme at the time, although it is possible that, subject to certain modifications, a fresh affiliation on terms more suitable to the conditions of the profession in Queensland may be entered into at a future date.

In consequence of the lapse of the examination arrangements through the termination of the affiliation scheme, it became necessary for your Council to arrange for the conduct of the October examination under our own auspices. In the month of April last, therefore, as you are aware, a fresh set of examination rules for the Institute were adopted, which were found to work admirably in the examination referred to, and from which your Council hope much good to the Institute will result.

In the October Examination seventeen candidates presented themselves, with the result that the following candidates passed successfully:—Rex Don Kennedy, James S. Inglis, George F. Offner. Several other candidates also succeeded in obtaining percentages which, under the new regulations, will exempt them from future examination in

three or more subjects. Your Examining Committee were ably assisted with regard to the legal papers by Mr. C. A. Morris, of the firm of Messrs. Morris & Fletcher, Solicitors, and your Council have pleasure in acknowledging their indebtedness to him for his kindness in the matter.

It is with sorrow that your Council have to record that, during the course of the year, the Institute lost, through the hand of death, the following esteemed members:—Hon. Boyd Dunlop Morehead, M.L.C., an honorary member of the Institute; Mr. Albert Harding French, a Fellow, and to whom the Institute must always be indebted, for the able manner in which he fulfilled the duties of Secretary for several years; and Mr. W. H. Bott, an Associate, who joined our ranks on 17th February 1898.

It was with pleasure that in May last your Council appointed, as an honorary member of the Institute, Mr. James Boyne Hall, Official Trustee in Insolvency and Curator in Intestacy, who now holds, in addition, the honourable position of Under Secretary for Justice.

The number of students presently on our Roll of Students, or known to the members of your Council to be working for admission, is very gratifying.

Our membership roll now comprises 7 honorary members, 27 Fellows, 21 Associates, 17 students, and 3 honorary corresponding members.

The following members of Council retire:—Messrs. Alfred E. Driver, Allan C. Wylie, Thomas Irving, Alexander Inglis, and Hugh Lavery. It will, therefore, be necessary to fill the vacancies on the Council by the appointment of three Fellows and two Associate members.

GEO. C. MATHESON,
President.

Brisbane, March 24th 1906.

Dr. FIFTEENTH ANNUAL STATEMENT of Income and Expenditure for year ended 28th February 1906. *Cr.*

<i>Expenditure.</i>		£	s	d
To Advertising		1	2	6
" Printing and Stationery		25	4	3
" Exchange Bank Charges		0	17	0
" Postages and Telegrams		3	13	11
" Rent Account		18	0	0
" Salary		36	0	0
" Charges		2	0	4
" Examination Fees		17	17	0
" Depreciation—10% Library and Furniture		6	10	6
" Balance carried to Capital Account, being excess of Income over Expenditure for year		1	15	7
		£113	1	1

<i>Income.</i>		£	s	d	£	s	d
By Admission Fees—							
1 Associate to Fellowship Degree		1	1	0			
2 Associates		6	6	0			
						7	7
" Examination Fees						17	17
" Library Subscriptions—10 Students at 10s. 6d. each						5	5
" Subscriptions—							
28 Fellows at £2 0 each		58	16	0			
20 Associates at 1 1 0 each		21	0	0			
1 Associate at 0 10 6		0	10	6			
						80	6
" Interest Account						2	5
						£113	1

STATEMENT OF ASSETS AND LIABILITIES, 28th February 1906.

<i>Liabilities.</i>		£	s	d	£	s	d
Sundry Creditors	.. .. .				14	8	0
Capital Account, 28th February 1905	.. .. .	130	18	1			
Add Excess of Income over Expenditure for year	.. .. .	1	15	7			
					132	13	8
					£147	1	8

			<i>Assets.</i>			
			<i>£</i>	<i>s</i>	<i>d</i>	<i>£</i>
						<i>s</i>
						<i>d</i>
Government Savings Bank	..	..	53	11	4	
Royal Bank of Queensland, Lim.	..	..	19	2	7	
Cash in hand	..	..	0	3	0	
						77 16 11
Library and Furniture, 1905	..	..	65	5	3	
Less Depreciation 10%	..	..	6	10	6	
						58 14 9
Outstanding Subscriptions	..	..	..	..	..	10 10 0
						£147 1 8

ALLAN C. WYLIE,
Hon. Treasurer.

We certify that we have examined the accounts of the Queensland Institute of Accountants, Incorporated, for the year ended 28th February 1966, and that we have compared them with the several vouchers relating thereto. We further certify that the above Statement and Balance Sheet agree with the books and vouchers of the Institute, and exhibit a true account of the Institute's financial position.

BRISBANE, 22nd March 1906.

ROY G. GROOM, F.I.A.Q.
JAS. P. MACFARLANE, A.I.A.Q. } *Auditors.*

Reviews.

Goodwill and its Treatment in Accounts.

By LAWRENCE R. DICKSEE, M.Com., F.C.A., and
FRANK TILLYARD, M.A., Barrister-at-Law.

London, 1906: Gee & Co., 34 Moorgate Street, E.C.
Third Edition. Price 5s. 6d. net.

Although the work now under review is comparatively new (having first been issued only nine years since), its author was doubtless well advised to secure the co-operation of Mr. Frank Tillyard, with whose aid this handbook has been not merely considerably enlarged, but almost entirely re-written. In its present form it is indeed more a legal textbook than a work upon accounts, but that is only in accordance with the requirements of the situation. The subject is, of course, primarily a legal one, and the correct treatment of goodwill in accounts cannot very well be considered until the true nature of this somewhat illusory item has been first determined. In its modern form the work consists of twelve chapters, of which the first seven—dealing with goodwill, trade-names, and trade-marks: their nature, protection, and methods of assignment—are described with a clearness which renders them readily comprehensible to laymen, and at the same time with a preciseness which will be duly appreciated by lawyers. The remaining five chapters deal respectively with the valuation of goodwill, the treatment in accounts of its fluctuations, considerations connected with the purchase of goodwill, and its proper treatment in the case of a partnership and of a limited company. This portion of the work is illustrated with various *pro forma* examples, making the treatment advocated in each case exceptionally

clear. Of especial interest at the present time will be found those portions which deal with the writing down or writing off of goodwill, and of the secret reserve thus created. The full text of the Trade Marks Act, 1905, which appears in the form of an appendix, will be found of especial value to those who cannot readily refer to the statutes; while Appendix B, which quotes some half-dozen clauses relating to goodwill frequently found in contracts of sale, partnership articles, and the like, will be found most instructive reading, although by no means necessarily incapable of improvement. The complete Index of Cases and a somewhat elaborate General Index will be found to add to the value of this volume as a work of reference.

Tables and Problems.

Compiled and arranged by THOMAS FATKIN.

Leeds, 1906: John R. Wildman, 17 Albion Street.

Price 1s. 6d. net.

This work, which is a pamphlet of some sixty pages, deals with formulæ and solutions for ascertaining the annual payments required to provide assurances for life, endowment assurances, old-age pensions, and the like. It will be found of some interest to the student of insurance methods, but to the otherwise uninformed reader it may be questioned whether it is likely to prove very enlightening. For our own part, we must confess that we doubt whether the "ability to perform with accuracy the first four simple rules of arithmetic" will be found to be all-sufficient as representing the desirable qualifications of an actuary, for there are many problems in connection with life assurance that would take literally years to work out by arithmetic. Assuming the knowledge

of the reader to be so limited upon commencing a perusal of the work before us, we should not be surprised if he had some difficulty in understanding all the explanations that follow, many of which require an acquaintance with what is ordinarily known as advanced algebra; but, however that may be, the chapters on "How Rates of Mortality affect Premiums" and on "The Income and Assets of Life Insurance Companies" will be found of interest, and what is perhaps even more important, particularly intelligible.

The Law Society.

Provincial Meeting.

THE thirty-second annual provincial meeting of the Law Society was held at Manchester last week, the business proceedings commencing on Tuesday, when the members of the Society met together in the Mayor's Parlour, Town Hall. Among those present were the President (Mr. Henry Attlee), the Vice-President (Mr. E. K. Blyth), Messrs. J. S. Beale, Robert Ellett (Cirencester), E. H. Fraser (Nottingham), W. E. Gillett, W. J. Humfrys (Hereford), W. G. King, Henry Manisty, T. Marshall (Leeds), J. F. Milne (Manchester), and C. L. Samson, members of the Council; C. J. E. Crosse (Manchester), John Cullimore (Chester), T. Eggar (Brighton), A. C. Peake (Leeds), A. Pointon (Birmingham), and R. Pybus (Newcastle-on-Tyne), extraordinary members; and E. W. Williamson, Secretary; S. P. Bucknill, Assistant Secretary; and H. F. Brown, Deputy Assistant Secretary.

Joint Stock Companies.

Mr. J. W. Reid (London) read the following paper:—

Prominence has recently been given to this subject by the report dated the 18th June last, of the Committee appointed by the Board of Trade (which I shall hereafter refer to as "the Committee") to inquire what amendments are necessary in the Acts relating to joint-stock companies.

I propose only to deal with a few of the subjects dealt with in that report, and to confine my remarks to matters of broad principle rather than specific detail.

The Committee occupy several paragraphs of their report in considering the recent diminution of company registration in this country; and the conclusions at which the Committee arrive, as to the reasons which have caused this diminution, include (a) the increase in the *ad valorem* duty, imposed by the Finance Act, 1899, from 2s. to 5s. per £100 nominal capital; (b) the stringent provisions in Section 10 of the Companies Act, 1900, as to the contents of the prospectus; (c) recent decisions on the Income-tax Act, to the effect that a company registered or controlled in England, and doing business abroad, is liable to be taxed on the whole of its earnings, whether made abroad or in the

United Kingdom, and wherever its shareholders may be domiciled.

Opinions will, no doubt, differ upon the question of whether or not the provisions of the Companies Act, 1900, have tended to diminish the registration of companies; but there can hardly be two opinions that the over-taxing of companies, both in the capital taxation on their registration, and in the unfair method of taxing their income, is part of the blind policy of "killing the goose that was laying the golden eggs."

Taking the latter question first (*viz.*, income-tax decisions to which the Committee allude) it seems manifest that, unless legislation interferes to stop the unfair results of those decisions, a large number of companies which carry on a business abroad will be driven to register abroad and have their registered office out of the United Kingdom, so as not to come within the mischief of such a decision as that which was propounded by the House of Lords in 1896 in the case of the *San Paulo Railway Company* (73 L.T. Rep. 538; (1896) A.C. 31).

An earlier case in the House of Lords, known as *Colquhoun v. Brooks* (61 L.T. Rep. 518; (1889) 14 App. Cas. 493), had decided that a sleeping partner in England in a business carried on in Australia was only to be taxed in respect of the income which he received in England from that business, but was not taxable on the profits of that business conducted abroad. Mr. Justice Wright in 1893, in a case known as *Bartholomay Brewing Company v. Wyatt* (69 L.T. Rep. 561; (1893) 2 Q.B. 515), had put the question of foreign trading by a limited company registered in England upon a sound common-sense basis when he said that "a business is wholly carried on abroad if all the operations which earn the profit are done abroad, notwithstanding that the owner resident here exercises control over these operations and ascertains and apportions the profits."

Shortly after this came the unfortunate case of *San Paulo (Brazilian) Railway Company v. Carter* (73 L.T. Rep. 538; (1896) A.C. 31), where the undertaking which the company was incorporated to carry on was "the making, managing, and working" of a railway in Brazil.

The former Lord Chancellor Halsbury, in his judgment in that case, said as follows: "The company has an office in London, and I am disposed to think that its trade is wholly carried on in England."

When one asks how it could be that, although (as Mr. Justice Wright had put it) "all the operations which earn the profit are done abroad," yet the company's trade was held in this case to be wholly carried on in England, one finds the answer (such as it is) in the continuation of the former Lord Chancellor's judgment, which says: "The conduct and management, the head and brain of the trading adventure are situated in a place different from

"that in which the corporeal subjects of the trading are to be found. . . . So that the company is carrying on the trade in London, from which it issues its orders, and so governs and directs the whole commercial adventure that is under its superintendence."

The result was that the company was taxed, not merely on the profits brought to and distributed in this country, but on all the profits made in Brazil, no matter how distributed; and this totally regardless of the fact that the company's undertaking was subject to heavy taxation in the country in which it was really carrying on its business (viz., in Brazil).

Some legal wag, at the time of this startling decision, suggested that the English directors of the company had better in future row out in a boat beyond the three-mile limit, and hold their board meetings on board the boat, when the brain power controlling the concern (or in the former Lord Chancellor's words, "the head and brain of the trading adventure") could no longer be held to be situated in this country.

Is it surprising, after a decision of this kind, which results in a company trading abroad, but having a registered office in England, being compelled to pay double taxation (viz., abroad and in this country), that companies whose operations are carried on abroad should avoid registration in this country?

The Committee have a paragraph in their report which shows that they have appreciated to some extent the folly of driving business away from this country by such short-sighted policy. The paragraph is to the following effect:—

"The facilities which exist—or did exist—in this country for the formation of companies here attracted in years past to this country a large amount of foreign enterprise and foreign business, with very beneficial results. If the practice is changing, as would seem to be the case, and the promoter prefers to register outside the United Kingdom, the explanation may be that the conditions of registration are less onerous in those countries than in the United Kingdom—the law as to disclosure or the liability of directors less stringent—the stamp duty on capital less deterrent."

I suggest that that paragraph (besides alluding to the stamp duty on capital) should have pointed out in forcible language that the taxation in this country of all profits made abroad (in addition to their taxation in the foreign country or colony) is the main factor which has induced companies which would, before the decision of 1896, have been registered in England, to seek registration abroad, and be placed under colonial or foreign law.

The mischief done by the decision to which I have alluded is far reaching; and a material amendment in taxation law affecting companies, which I would suggest, is that the Legislature should put this question of taxation

on a proper basis, so that it may no longer be the law that because a company is registered or controlled in England it is to be held to carry on the whole of its trade in England, and be taxed on its whole profits, when, as a matter of fact, every operation which earns a profit is carried on in a foreign country or colony. Whilst I am writing this I am informed that the De Beers company (which has been hit hard by a recent decision) is contemplating a move which will not be good for the trade of this country; but as the case has not yet gone to the House of Lords I refrain from comment upon it.

Before going to other branches of the subject I should wish to mention that what the Committee allude to as "the stamp duty on capital" being deterrent is a matter of substance when it is remembered that under the Companies Act, 1900, it is obligatory to specify in the articles the minimum subscription on which the company is to go to allotment, and if upon publication of the prospectus the company does not float, the whole of the registration fees paid are entirely lost to the company, although the Government gets the benefit of them.

The Committee seem to have been shocked at the idea that a considerable number of companies come out without the use of a prospectus, and the Committee has in its report a long paragraph headed "Diminishing use of Prospectus."

Now, the Committee recognise that one of the reasons for omitting to publish a prospectus is to be found "in the uneasiness which some directors feel in committing themselves to the series of statements required by Section 10 of the Companies Act, 1900, having regard to the grave consequences which may attach to any even unintentional misstatement." Yet with almost refreshing inconsistency the Committee suggest that all companies not filing a prospectus before commencing business should be compelled to file a preliminary statement containing similar information to that required by Section 10 of the Act of 1900 in a prospectus, and constituting a public document of which every buyer of shares in the company would have constructive notice.

When we seek for the reasons of the Committee for advocating this proposed innovation we are told by the Committee that, "without being very sanguine as to the practical usefulness of such a statement, we think it would at least give to intending buyers of and subscribers for shares and to possible creditors the opportunity of informing themselves of the character of the company."

I am bound to say that this kind of thing sounds to me very weak and futile.

Practical people ought to know that the bulk of the companies which come out without a prospectus are in the nature of private companies, which do not offer their shares to the public at all. Digitized by Google

In those companies where the vendors or promoters take a large block of shares as part of the consideration of their property or services (and afterwards dispose of such shares on the Stock Exchange or privately), it is for the seller of such shares to be careful to make no misrepresentation, and it is for the buyer to beware that he understands what he is acquiring for his money.

If fraud or deceit takes place in such transactions the buyer would have his remedy at law; but why should the directors of the company be saddled with the responsibility of putting on record such a statement as suggested, with all the elaborate particulars required by Section 10 of the Companies Act, 1900?

I have heard many humorous notions about the adjusting of the responsibility of directors. One recent idea was that the Registrar of Joint Stock Companies should hold a sort of inquiry into the truth or otherwise of statements in a prospectus about to be filed and issued, and that, when once the Registrar was satisfied that none of the statements in the prospectus, as amended by him, were misleading, then no director or other officer should afterwards be liable for any statement in a prospectus so settled and passed by the Registrar.

No doubt there are many competent critics who consider that we have gone too far in the responsibilities now thrown upon directors, and there is something worthy of careful consideration in the argument that, if you make the position of a director too onerous, you will choke off respectable and responsible men of good standing from undertaking directorships, whereas the less scrupulous person who has nothing to lose will become more common at board meetings.

Perhaps some of the most difficult subjects which engaged the attention of the Committee are the problems which arise under the head of "Underwriting Commissions and Discounts," including the question of whether or not shares in a limited company should in future be allowed to be issued at a discount.

Widely divergent views are held upon these subjects, and I do not expect to be able to contribute anything very original; but it may be worth spending a few minutes in considering the general lines upon which any further amendment of company law relating to these particular matters should move.

The original principle of the Companies Act, 1862, was that the nominal amount of the shares should be payable in full, either in cash or its equivalent, and it is clearly quite against this principle that a company limited by shares should issue such shares at a discount, or that the company should pay to a subscriber a commission out of its capital for subscribing for shares at par.

The Council of the Law Society, in an admirable report made for the use of the Committee, point out that: "Since

"the Act of 1867 recognised the payment for shares otherwise than in cash, it does not appear to the Council that the rule which prohibits shares from being issued for a money consideration less than their full value has rested on any solid foundation, or is calculated to benefit either the members of a company or the outside public, while its observance undoubtedly often interferes with a company attaining legitimate ends. The fact that the rule does not apply in the case of companies incorporated by special Act, or otherwise than under the Companies Acts, shows that there is nothing unsound in the principle of allowing shares to be issued as fully paid up, in consideration of a payment less in amount than their nominal value; and instances in which such issues have taken place have failed to show any harm arising therefrom.

"It is beyond question that the credit of a company does not depend upon, and is not to be estimated by, the nominal amount of its paid-up capital, but upon its actual assets and liabilities."

The report goes on to intimate that, inasmuch as the property or services given in exchange for shares (which are treated as fully paid) can be valued on practically any basis which the company may think fit, it is obvious that the prohibition against the issue of shares at a discount is reduced to a mere theory.

Section 8 of the Act of 1900, by sanctioning the payment of commission out of capital for the procuring of the subscription of capital, has to a considerable extent set aside the principle of prohibiting the issue of shares at a discount.

The Committee has not had the boldness to recommend the abolishing of the restrictions on issuing shares at a discount.

The report states that, "upon the whole, we are not disposed, as regards shares in the original capital, to accept the suggestion that the more straightforward course would be to authorise in express terms the issue of shares at a discount—not because we think that there is in substance any real difference between the issuing of shares at a discount and the payment to the subscribers for shares of a commission for subscribing, but because we think it undesirable and unnecessary to facilitate the issue of shares at a discount at the time when a company is formed."

The Committee then go on to intimate that a company which has been carrying on business for not less than twelve months, and then desires to raise further capital, might be then permitted to issue shares at a discount.

The Committee do not condescend to give any reason why they think it undesirable to facilitate the issue of shares at a discount at the time when a company is being formed; and, although they have no doubt considered the subject, they do not seem to have fully appreciated that

many of the devices made use of to avoid coming technically within the offence of issuing shares at a discount are a mischief in themselves, and tend to bring company promotion into disrepute, whereas it would probably be much more sensible to allow limited companies to raise their capital upon the terms which they find most convenient.

The Committee do not give any intimation about what mischief it is suggested might arise from giving to limited companies the same freedom as companies brought into existence by special Act of Parliament, and so long as proper publicity is given by the filing with the Registrar of Joint Stock Companies of proper returns, showing the terms upon which the capital is being issued, I submit that it would be well to sweep away the artificial restriction upon issuing shares at a discount, which at present unwisely fetters limited companies.

Before leaving the subject of discounts and underwriting commissions, I should like to say that I am quite in accord with the recommendation of the Committee that Section 8 of the Companies Act, 1900, requires amendment, so as to allow of the payment of commission when there is no offer of shares to the public.

Speaking generally, I am inclined to think that, in most of the efforts for the reform and amendment of company law, too much attention it paid and too much sympathy is shown for that comparatively rare creature known as the "deluded shareholder," and too little attention is given to that much more common creature, the "deceived creditor."

The supposed "deluded shareholder," whether male or female (and perhaps the female variety is the commoner), goes into a speculative venture greedy for gain, and is seldom a sufficient sportsman (or sportswoman) to take the rough with the smooth; but is like the unreasonable "grumbling husband" who, when reminded that he took his wife for better or worse, ungallantly alleged that it was "all worse and no better."

My sympathies are more with the "deceived creditor." You may say that the creditor ought to inquire into the standing of the company before giving credit, and my answer is, then give the creditor some better facilities for ascertaining the facts when he does inquire.

The few remaining minutes at my disposal I propose to devote to giving some instances in which the position of a reasonably careful creditor might be improved.

Anyone who has had experience of going to Somerset House to inspect the file of a limited company can hardly have failed to be struck with the utter feebleness of the past efforts of legislation in the direction of including (in the documents bound to be filed) anything that is of any practical use to an inquiring creditor.

True, under the Act of 1900 some of the mortgages and charges of a company (if created after the passing of that Act) have to be registered, but mortgages and charges prior

to that Act need not be registered; and, moreover, specific mortgages of freehold or leasehold property are not touched by the Act unless such mortgages were made (since the Act) for securing an issue of debentures.

So that a land company for dealing with land and houses may have its landed property mortgaged up to the hilt, and there is nothing to show it on the Register kept by the Registrar of Joint Stock Companies.

Again, charges given to bankers and secured on the investment of the company in stocks and shares do not come within the Act.

In this connection I welcome a recommendation of the Committee that the more comprehensive Register of Mortgages and Charges (which under Section 43 of the Companies Act, 1862, is bound to be kept at the company's own office) shall in future be open to public inspection; and the further recommendation of the Committee that a statutory duty should be imposed upon every company to cause entry to be made on the Register at Somerset House of the total unsatisfied debt secured by mortgages or charges, which would have required registration had they been created since the coming into operation of the Act of 1900.

However, the giving of information to a creditor about mortgages is not sufficient. What a careful man requires, when giving credit to a company, is some accurate information about its assets and liabilities.

It has always been inexplicable to me why there should be any hesitation about compelling limited companies to give such information.

The usual argument which one has heard against making limited companies give this information has been that it is unfair to place them in a worse position than other traders. But with all respect to those who use this argument, surely the answer to it is that as members of limited companies enjoy the privilege of having no responsibility to creditors beyond the amount of the uncalled capital on their shares, it is but reasonable and fair that those persons who take the risk of dealing with concerns enjoying such immunity should have full information as to the assets and liabilities of such concerns.

It is satisfactory to find that the Committee has recommended that "every limited company ought to be required "to file periodically a statement of its affairs in the form of "a Balance Sheet, containing a summary of its capital, its "liabilities, and its assets, giving such particulars as may "generally disclose the nature of such liabilities and assets, "and how the values at which the fixed assets stand are "arrived at."

The Committee also add (to quiet, I presume, the forebodings of those who fear that this reform may become too inquisitorial) these words: "We do not intend that such "Balance Sheet should include a statement of profit and "loss."

Now, although there are many other suggested amendments in company law to which I should like to allude, my experience of these meetings, where a variety of subjects are discussed, warns me to check my enthusiasm, and I will only deal briefly with one other thorny subject (which largely affects unsecured creditors of limited companies). I refer to what are known as "floating charges."

Some special prominence has been given to this subject lately owing to some strong remarks of Mr. Justice Buckley in the case of *London Pressed Hinge Company, Lim.* (92 L.T. Rep. 409, 1905; 1 Ch. 576).

As is no doubt well known, a floating charge is usually in the form of a charge on the undertaking of the company and all its assets, present and future. The company can carry on its business and give a good title to purchasers or to mortgagees taking a charge upon any property specifically described in the charge, and can pay creditors in the ordinary course of business, so long as the holders of the floating charge do not interfere. It is not a charge upon any specific property, but upon the assets which belong for the time being to the company, or which may from time to time thereafter belong to the company.

The Committee state in their report that, if the practice of raising money by floating charges had recently commenced (or had been adopted to a small extent only), some of the Committee would have been inclined to prohibit this mode of raising money by a security upon future assets. Yet the majority of the Committee came to the conclusion that floating charges do not interfere with the general creditors of the company to such an extent as to justify the recommendation of their abolition.

A minority of the Committee, in a short, separate report, state that they do not consider that a company should have any greater facility for borrowing than an individual; and whilst admitting that a company should have unrestricted power to mortgage or charge its fixed assets (and should be allowed to contract that other fixed assets substituted for those charged should become subject to the charge), recommend that a company ought to be rendered incapable of charging after-acquired chattels or future book debts, or other property not in existence at the time of the creation of the charge.

My own view is in favour of this minority report.

Most of us will appreciate the fact that there is a danger in allowing to companies too great facility in the borrowing of money.

Reckless trading can be indulged in by a company with greater impunity than by an individual. In the case of individuals who continue to trade after knowledge of their insolvency, their misconduct is dealt with under the Bank-

ruptcy Acts, and awkward results may follow, such as having their discharge suspended.

A company does not suffer in the same way, but can "wind-up," and leave its unfortunate trade creditors in the lurch.

This seems to make it important to scrutinise with greater care the subject of borrowing by a company.

Perhaps the most startling result of allowing floating charges in their present form is that the holders of the floating charge, by allowing the company to continue trading until it has obtained considerable quantities of goods on credit, can step in at the most advantageous moment for themselves, and take these goods to swell the assets out of which they, the debenture-holders, will receive payment.

A grave scandal (to which the minority of the Committee again call attention) is that it is possible, as things stand now, for an insolvent debtor to sell his business to a company formed by himself, upon the terms that it should pay the existing debts of the business, and issue to the insolvent debtor (as further consideration) debentures charged on all the assets, so that when, by means of goods obtained by the company on credit, the insolvent debtor has paid off his own debts, he can re seize the business under the powers contained in his debentures.

The majority of the Committee propose to amend the law by providing that a floating charge given within three months before the commencement of the winding-up of a company shall be invalid, except to the extent of the cash actually advanced at, or subsequent to, the creation of the charge, together with interest at 5 per cent., unless it is proved that the company was solvent at the time the charge was created.

I venture to doubt whether such an amendment would be sufficient to meet the injustice which is now commonly suffered by the large class of manufacturers and merchants who supply goods on credit to limited companies.

It would appear wiser, safer, and more statesmanlike to sweep away the special privilege which has grown up of allowing a company to charge after-acquired chattels, or other property not in existence at the time of the creation of the charge.

It has often been said of a company that it has "no body to be kicked and no soul to be damned," and the way in which at present it can, with its floating charges on after-acquired assets, injure its ordinary creditors, inclines one to say with King Lear:

"Thou hast within thee undivulged crimes
Unwhipp'd of Justice."

A short discussion followed, the speakers agreeing in the main with the paper.

The Collection of the Estate and other Duties, commonly called the Death Duties.

Mr. W. J. Humfrys (Hereford) read the following paper:—

It is not proposed in the present paper to discuss the legislation by which the existing death duties were imposed, still less to criticise the policy which led to their imposition.

Those are matters outside, it is conceived, the province of this Society. But the mode in which these duties are collected and the practice of the authorities charged with their collection are matters of special concern to members of our profession. It is of hardly less importance to the State than to the individual taxpayer that the burden of duties which must necessarily weigh heavily on the persons liable to them should not be increased by any procedure that may add to the expense and trouble incurred in their discharge, or that may cause any suspicion of injustice or unfairness in the minds of those who have to pay them, however unfounded such suspicion may be. The object I have in view is to point out that in some cases the present practice appears, at all events, to work injustice, and in many others to cause delay, expense, and irritation that might to a great extent be avoided.

Nothing is further from my intention than to make anything like an attack on the authorities at Somerset House. I would most freely acknowledge their almost unvarying courtesy and their evident desire to avoid anything in the nature of injustice and oppression, and their criticisms of accounts delivered do not always increase the duty tendered, but sometimes reduce it. I can quite understand, moreover, that the immense addition to the work in the Death Duties Department since the Act of 1894 has resulted in a strain which may excuse errors and oversights. None the less are such errors and oversights to be deprecated when they lead to claims that have to be abandoned as made by mistake, and still more when their result is to compel payment of duties by people who may not unreasonably believe they have already been paid, as in cases where the claim is first made many years after the duties became payable.

The principal reforms needed as I would venture to suggest in the procedure of the Death Duties Department are three in number. One of these can only be effected by statute; the others may be dealt with by a departmental order.

(1) The present rule that no time runs against the Crown should be modified. That the authorities should be able to make claims for duties twenty, thirty, or forty years after they became due, and at a time when it is impossible for the persons liable to show that they have been paid, must often work injustice and cause hardship, and it ought not to be necessary for the protection of the revenue.

(2) The staff should be increased and adapted to the present amount of business, so as to prevent the delays and

errors that now occur, and to enable claims for duties to be made within some reasonable time after they become due.

(3) The old practice which prevailed for many years of permitting persons tendering accounts either to send such accounts by post or to attend with them personally or by an agent, discuss them with a clerk, and get the duty assessed and the matter disposed of at once should be restored.

I know of no means by which I can better explain the evils of which I am complaining than by narrating a few personal experiences. Every one of the cases I am about to mention occurred in my own practice, so I can vouch for the accuracy of what I state.

In the year 1902 some old family clients of my firm received notices that legacy duty was due on a sum of £5,000 to which they had become entitled under an old settlement and will on the death of their mother in 1881. I had no difficulty in satisfying the authorities that whatever duty was due in respect of the sum in question had been discharged many years previously, but I took the opportunity of pressing upon the secretary the unfairness of making such a claim for the first time more than twenty years after the duty became payable. I was not much surprised that the books at Somerset House suggested that this duty was payable. The trusts affecting the funds of which the sum in question formed part were very complicated, and a clerk could hardly be blamed for failing to connect the fund on which duty had been paid with the £5,000 of which he had discovered an entry under a different heading, but what I urged as a subject of complaint was that no notice had been given of the claim for over twenty years. Nobody but myself had any intimate acquaintance with the intricacies of the family settlements under which the duties claimed arose, or could have explained the manner in which those duties had been discharged, and had I not been alive the payment of duty that had already been paid, with over twenty years' arrears of interest, would in all probability have been enforced. I received in answer to my complaint a most courteous and candid answer from the secretary, from which I extract the following: "As regards the delay in making applications, nowhere is it more regretted and nowhere is the inconvenience thereof more felt than in this office. It has arisen first from the enormous increase of late years in the quantity of accounts and affidavits rendered, necessitating the drafting of clerks from the review in order to keep the current work afloat, and secondly from the increased complexity of the work since the passing of the Finance Act, 1894. . . . Large additions have been made to the staff, and a Treasury Committee has met to consider the whole working of this office. This Committee was unanimously of opinion that it can never be worked satisfactorily until increased room accommodation is provided for the staff. Accordingly a building is in

"progress to receive the Audit and Exchequer Office, and
"the consequent vacating of a portion of this building will,
"it is hoped, meet the case. In the meanwhile a large staff
"is working overtime to lessen the arrear in the review.
"You will thus see that the matter is well in hand, but I
"fear it will be a long while yet before the work is really
"up to the proper date in the review division."

The letter concludes with the stereotyped remark that accountable persons are required by law to pay the duty when it becomes due without waiting for applications from the office. It did not appear to strike the writer that the complaint he was dealing with was that a claim for duty *that was not due* had been made for the first time more than twenty years after it ought to have been made—if made at all—and that it was only owing to the circumstance of my being alive and the family papers in order that the persons liable had not been made to pay it twice over.

In another case which came under my notice in 1901 some persons in a comparatively humble position of life were compelled to pay succession duty which I am inclined to believe had been previously discharged. At all events, the duty in question became payable in the year 1859, and no claim had reached the person then entitled to the property (an aged widow) until 1901. All that the old lady could say was that she was confident money had been paid to her trustee on account of this duty about the time of the death of her mother in 1859, and she believed he had paid it. The trustee had long since died, and there were no means of getting at his papers or obtaining any information as to what he had done, and so the duty, with interest amounting to a considerable sum (having regard to the position of the persons liable), had to be paid.

It is hardly surprising that such a claim should give rise to a sense of injustice and oppression in the minds of persons such as the sufferer in that case.

That mistakes and oversights are made in the entries at Somerset House of wills and other documents the following anecdote will show.

One soaking wet day in the winter of 1900 I was surprised by a visit from an old client of mine, a well-known and well-to-do farmer. He seldom came to Hereford except on market days, which the day in question was not, and it certainly was not one that would be selected for a long drive into town. His face, too, made me imagine some serious trouble had befallen him, and he had hardly got into my room before he began in a very anxious tone: "I thought
"you told me that all duties for which I was liable under the
"will of Miss — had been paid long since, and that I was
"under no further responsibility." "So I did," I replied,
"and so they have been." "Then look at this," and he produced a letter from the Solicitor of Inland Revenue threatening him with proceedings unless certain succession
"were paid within fourteen days, and stating he was

liable for them as a trustee of the property. He assured me, moreover, that this was the first communication he had received on the subject. I managed to reassure him, to some extent at all events, by explaining that he was not a trustee of the property in question and was under no kind of liability whatever for the duty (the testatrix had died before 1898), and I put myself in correspondence with the Solicitor for Inland Revenue, and ultimately got an admission that he found on inquiry that the will on which he had been relying had been wrongly entered in the office books, and he apologised for the threat; and in answer to a question as to whether it was the practice of the office to make their first application for duty in the shape of a threat of proceedings I learnt that attempts had been made to obtain the duty from the persons liable, and when these proved ineffectual it was thought as well to try a letter to my client threatening a writ, albeit no previous application had been made to him. I tell the anecdote as illustrating the errors that must from time to time be made in the office books and the unfairness of insisting that those entries ought never to be questioned.

Only the other day I had a claim for a sum of estate duty where I had paid more than two years previously what were described as "the remaining duties under the will of the above deceased." I had imagined from that letter that a claim for a sum of estate duty about which we had been in correspondence had been waived, as the authorities had an account in respect of it before them, and I supposed that the letter I have referred to, which accompanied the accounts, was an intimation that the estate duty in question would be abandoned. However, when the claim was revived more than two years later, the only explanation vouchsafed was that "by some mischance it had escaped notice."

I could multiply illustrations of the evils of which I complain, but if mistakes and cases of hardship such as I have mentioned come to light in a small country practice like mine, it may be assumed that throughout the country they are by no means rare. It would not be fair to lay the blame on the officials at Somerset House; it is the system that is the cause of all the mischief—the attempt to collect the duties at a minimum of cost, to save the necessary outlay on proper buildings, to do the work with an inadequate staff, and to refuse such inducements as would attract the best type of mind for work that is of the most difficult and arduous character, requiring for its proper performance an extensive and accurate knowledge of certain branches of law. And while the work of the department is hampered by lack of room, there is the huge building in Lincoln's Inn Fields erected at a great cost and devoted to the work of registration of title, an undertaking that does good to no one but the officials employed, and which people interested in the transfer of land would have none of unless they were compelled.

To turn to the third of my grievances.

Under the present system all accounts have to be sent by post, and as a consequence it often takes many weeks, sometimes months, to get accounts passed.

Recently it took just six months to get the accounts of a considerable estate accepted and the duties paid. It is quite true the accounts were more than usually intricate and difficult, but I have little doubt that had I been permitted to send the papers in the first instance by an agent, as was my custom in the old days in such cases, the whole matter would have been cleared in a month.

The accounts were sent up in the middle of February—they came back early in March with a series of requisitions for fresh accounts and affidavits, and these were sent up before the end of March. Shortly afterwards they were again returned with other requisitions, and this led to further correspondence and further alterations—when at last, about the end of May, I hoped they were satisfied. Then another point was raised, and we were asked whether the trustees contemplated providing for some annuities given by the will by purchasing annuities, by setting aside funds to answer them, or by paying them out of residue. The only true answer that could be given was that the trustees had not made up their minds, and could not make them up till after the duties had been assessed and paid, an answer which appeared to be deemed satisfactory, as about the middle of June another objection was raised, and we were asked to apportion a number of payments between realty and personalty, and when this had been done the question of the mode of providing for the annuities was raised again, with the result that the duty was at last assessed on the 17th August.

This is by no means an isolated instance of the delay and difficulty the present practice occasions. I am quite aware that in many cases there is far less reason—sometimes no reason whatever—for complaint. Everything, however, seems to depend on the clerk to whom the accounts are referred. Some are more or less rapid, and papers that go before them are frequently returned approved without objection, and when criticised or objected to the remarks and requirements are intelligible, and the accounts are passed with reasonable speed. With other officials, however, it is very different. Some of them have peculiarly technical minds, and return papers and give a vast deal of trouble for all kinds of trivial reasons which do not in the least affect the amount of the duty. They take first one set of objections, and when these are removed raise others, and, indeed, appear to have only sought an excuse for postponing the evil day when the papers must be fully examined and dealt with. Indeed, in some cases the wording of the criticisms and objections is not very intelligible, and the other day I had to reply to a set of objections that I really

could not work out proportions of x , or, in other words, of an unascertained amount.

Much of the delay and annoyance that this sort of objection entails might be obviated by the attendance of agents, who would discuss the whole matter, ascertain exactly what was wanted, and get accounts passed in a very few days.

I recollect one such case shortly before the new regulations came into force where an exceedingly complicated set of accounts involving questions about which there was ample room for differences of opinion—certainly as much as in the case I have referred to—were all passed in about a week, whereas under the present practice I doubt if they would have been cleared in less than several months, unless indeed we had been more than usually fortunate in the official who had cognisance of them.

It would not be fair, as I have already said, to blame the clerks for the existing delays. They are not sufficient in number to do the business, they are taken from time to time—as mentioned in the letter I have already quoted—from the current work to deal with the report, and then when the current work gets in arrear are supposed to get over these arrears by working overtime, and it is no doubt convenient to the persons responsible for this state of affairs that a clerk should be able to take his own time over accounts he has to deal with, however great the annoyance and loss to the legatees and other people who are kept out of their money by these delays. In the case I mentioned above we had several thousand pounds lying practically idle for months owing to the delay in getting the duties cleared.

There are some other reforms that are required, though they are of less importance.

We want some arrangement by which a certificate that all duties affecting any particular property have been discharged may be readily obtained. At present the authorities will only give such a certificate as of right to the person who has actually paid these duties, and, although information is occasionally vouchsafed to other people (a concession that has only been made as the result of pressure by the Council of this Society), it is given in a grudging and unsatisfactory way.

Why should it not be open to any person on filling up a form stating that he has an interest in, say, Blackacre devised by the will of John Jones proved on a certain day—to require the authorities to state if all duties affecting that property under the testator's will have been paid. A small fee—a shilling or half-a-crown—might be payable for the certificate, but why should there be any difficulty in obtaining information which is very often required as a matter of title?

All other documents of record are open to inspection, and, in fact, special arrangements have been made to facilitate searches for judgments and similar charges. Why should

any difficulty be made in affording information as to existing charges for death duties?

Another small grievance is caused in many cases by the rule the authorities have made that the *gross* amount realised by the sale of the property of a testator, more especially of chattels, such as plate, pictures, and the like, shall be treated as the value for estate duty, without any deduction in respect of the expenses incurred in preparing for sale. It is obvious that works of art—articles of *virtu*, china, and similar effects—will fetch a very different price if offered to a broker or a dealer than they will if submitted to experts, offered by auction, and handled in some such way. This must, however, involve expense, and it would surely be only just that some allowance should be made in this account when the price realised at a sale is taken as the value of the effects for estate duty. A still greater hardship is sometimes worked by the hard and fast rule the authorities have laid down that the value of life policies forming part of an estate are to be valued as worth 25 per cent. more than the surrender value, because on some occasions such policies will fetch when offered by auction some such price in excess of the surrender value. In many cases the cost of an auction would be out of all proportion to the value of the policy, and the amount that can be obtained in excess of the surrender value by a sale under the hammer varies, as we all know, considerably. However, these are small matters of detail, and probably when the attention of the authorities is called to them they may be remedied, and the complaint applies, though possibly not with equal force, to the rule that real property is to be treated as having been worth the gross amount it may realise when sold without any deduction for the cost of sale, but this is not the only difficulty that has to be faced in connection with the duties on realty.

If I have at all succeeded in the object I have had in view I have shown that reforms in the practice at Somerset House are urgently called for, but I believe that, if the Government can be induced to limit the period during which the death duties can be recovered (except perhaps in cases of fraud or wilful suppression of facts that should have been disclosed) the other reforms I have advocated will follow. At present the authorities are content to allow duties to remain unclaimed because they know they can recover the amount with interest at any time, and it matters little to them how great the hardship or suffering caused by the delay.

The provision in the Customs and Inland Revenue Act of 1889 limiting the period during which as against purchasers for valuable consideration real estate remains charged with succession duty has resulted in great saving of trouble and expense in many cases, and would it not be a fair and reasonable concession for the Crown to make to limit its right to recover unpaid death duty of every kind

to a period of, say, twelve years after it became due? Such a provision might lead to the employment of a more adequate staff, and then some, at all events, of the reasons which have led to the present practice of insisting on all papers being sent by post would disappear.

I hope, at all events, this paper may elicit some expressions of opinion and some account of the experience of other members of the profession, and I may perhaps say that I have discussed the question of the importance of our being allowed to present papers personally or by an agent from the point of view of a country solicitor practising at a considerable distance from London. A right to an interview by appointment is of no value to persons in my position. The cases must be few and far between in which it will be practicable in the case of solicitors residing 150 miles from London for the partner or clerk acquainted with a particular business to make a journey to Somerset House to discuss each point as it is raised, and it is often impossible to give satisfactory instructions to an agent after the discussions on and alterations of the accounts have rendered them hopelessly complicated.

I cannot but think, however, that the officials charged with the collection of these duties, not merely the staff at Somerset House, but still more members of the Government, must be anxious to remove grounds for reasonable dissatisfaction and complaint, and, if this meeting takes the same view of the matter as that to which I have endeavoured to give expression, perhaps the Council may see its way to approach the authorities, and may be able to persuade them to improve the existing arrangements and enable us to pass accounts and pay duties with much less delay, difficulty, and expense than we can at present.

Mr. J. H. Cooke moved, and Mr. C. B. O. Gepp seconded: "That the Council be requested to consider the expediency "of sending a print of Mr. Humfrys' paper to the authorities with a view to the grievances therein referred to, "which are extremely common, being remedied."

The motion was unanimously adopted.

(*The Law Times*.)

Meetings for the ensuing Week.

Tuesday — INSTITUTE OF CHARTERED ACCOUNTANTS. — General Purposes Committee, at 3 p.m.

Wednesday — INSTITUTE OF CHARTERED ACCOUNTANTS. — Parliamentary and Law Committee, at 3 p.m.

Friday — LIVERPOOL CHARTERED ACCOUNTANTS STUDENTS' ASSOCIATION. — Joint Debate with the Sheffield Chartered Accountants' Students—subject, "Income-tax" —at the Library, 3 Lord Street; 6 p.m.

Prevention of Corruption Act, 1906.

[6 Edw. VII. Ch. 34.]

AN Act for the better Prevention of Corruption.

[4th August 1906.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

- 1.—(1) If any agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do, or for having after the passing of this Act done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

If any person corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having after the passing of this Act done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

If any person knowingly gives to any agent, or if any agent knowingly uses with intent to deceive his principal, any receipt, account, or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead the principal;

he shall be guilty of a misdemeanour, and shall be liable on conviction on indictment to imprisonment, with or without hard labour, for a term not exceeding two years, or to a fine not exceeding five hundred pounds, or to both such imprisonment and such fine, or on summary conviction to imprisonment, with or without hard labour, for a term not exceeding four months, or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine.

(2) For the purposes of this Act the expression "consideration" includes valuable consideration of any kind; the expression "agent" includes any person employed by or acting for another; and the expression "principal" includes an employer.

(3) A person serving under the Crown or under any corporation or any municipal, borough, county, or district council, or any board of guardians, is an agent within the meaning of this Act.

2.—(1) A prosecution for an offence under this Act shall not be instituted without the consent, in England of the Attorney-General or Solicitor-General, and in Ireland of the Attorney-General or Solicitor-General for Ireland.

(2) The Vexatious Indictments Act, 1859, as amended by any subsequent enactment, shall apply to offences under this Act as if they were included among the offences mentioned in Section 1 of that Act.

(3) Every information for any offence under this Act shall be upon oath.

(4) The expenses of any prosecution on indictment under this Act shall be defrayed as in cases of indictment for felony.

(5) A Court of quarter sessions shall not have jurisdiction to inquire of, hear, and determine prosecutions on indictments for offences under this Act.

(6) Any person aggrieved by a summary conviction under this Act may appeal to a Court of quarter sessions.

3.—This Act shall extend to Scotland, subject to the following modifications:—

(1) Section 2 shall not extend to Scotland:

(2) In Scotland all offences which are punishable under this Act on summary conviction shall be prosecuted before the sheriff in manner provided by the Summary Jurisdiction (Scotland) Acts.

4.—(1) This Act may be cited as the Prevention of Corruption Act, 1906.

(2) This Act shall come into operation on the first day of January nineteen hundred and seven.

Bankruptcy Act, 1883.

Report by the Board of Trade laid before both Houses of Parliament under Section 131 of the Bankruptcy Act, 1883.

To the President of the Board of Trade.

SIR,

I have the honour to submit the Twenty-third General Annual Report on the various matters—administrative, financial, and judicial—within the Bankruptcy Acts, for presentation to Parliament.

A Report by the Inspector-General in Bankruptcy on the administration of the Bankruptcy and Deeds of Arrangement Acts is annexed, and the accompanying Tables furnish the usual statistical details both for the past year and for a series of previous years.

A Report by the Solicitor to the Board of Trade on proceedings conducted by him is also annexed.

These Reports and Tables, as contained in the Annexes hereto form part of the General Annual Report which the Board of Trade have caused to be prepared for the purpose of being laid before both Houses of Parliament as required by the Act.

Financial Results.

The following is a Statement, furnished by the Treasury, of Receipts and Expenditure on account of bankruptcy pro-

ceedings during the year ended 31st March 1906. The figures are subject to revision.

ACCOUNT showing the RECEIPTS and EXPENDITURE on account of BANKRUPTCY PROCEEDINGS during the Year ended 31st March 1906.

Particulars of Receipts	Amount	Particulars of Expenditure	Amount
	£		£
Net Amount received by the Inland Revenue for Stamps issued in respect of Bankruptcy business (less estimated cost of collection and manufacture of Stamps)	53,544	*Salaries of Officers, &c. (not including salaries of Judges either of the Supreme Court or County Courts)	110,717
Amount of Fees received in Cash	65,409	Remuneration to County Court Registrars in respect of Bankruptcy Business	22,974
Dividends on Funds invested under Section 76 of the Bankruptcy Act, 1883	17,757	Incidental and Travelling Expenses, including postage	6,830
Credit for Rent of 34 Lincoln's Inn Fields (purchased from Bankruptcy Funds, now used by another Department) ..	400	Rent, Rates, Taxes, &c.	9,010
		Stationery	9,016
		Pensions and Compensations since January 1 1884	4,772
		Estimated cost of Audit	228
Total	£137,110	Total	£163,547

ACCOUNTS relating to BANKRUPTCY ADMINISTRATION prior to the Bankruptcy Act, 1883.

Dividends which would have arisen on Stock transferred to the National Debt Commissioners and cancelled under the Courts of Justice (Salaries and Funds) Act, 1869, if such Stock had not been cancelled	£ 35,499	Cost of Bankruptcy Prosecutions	£ 1,478
Less Income Tax	1,775	Pensions and Compensations before January 1 1884	1,895
Total	£33,724	Total	£3,373

* Including salaries of officers of the Bankruptcy Department of the High Court of Justice, and a sum of £3,232, being the amount estimated by the Board of Trade to represent the services of officers of that Board employed on Bankruptcy business but not paid from the Vote for the Bankruptcy Department.

The following table shows the receipts and expenditure in each year under the Act of 1883:—

RETURN showing the TOTAL RECEIPTS and EXPENDITURE on account of BANKRUPTCY PROCEEDINGS during the Years ended 31st March from 1885 to 1906.

Years ended 31st March	Total Receipts including Dividends on Cancelled Stock			Total Expenditure	Including Dividends on Cancelled Stock credited under 32 & 33 Vict. c. 91, s. 13			Excluding Dividends on Cancelled Stock		
	£	s	d	£	£	s	d	£	s	d
1885	167,062	16	7	153,138	13,923	17	3	27,424	6	1
1886	198,103	14	11	173,171	24,932	13	11	16,062	1	4
1887	201,532	6	3	181,694	19,837	8	10	21,157	6	5
1888	210,529	4	8	186,717	23,811	5	8	17,360	3	10
1889	219,869	4	7	188,732	31,136	17	11	23,213	13	3
1890	187,910	9	7	185,806	2,103	14	6	36,833	15	10
1891	167,744	1	1	181,654	..	..	..	51,982	18	0
1892	185,895	1	5	171,570	14,325	0	10	23,747	3	11
1893	191,153	10	10	175,960	15,192	12	1	22,879	12	8
1894	191,330	7	9	177,211	14,118	11	6	23,790	19	3
1895	184,259	6	7	177,241	7,018	1	2	30,728	15	6
1896	174,541	9	3	174,464	76	11	11	37,670	4	9
1897	172,177	2	10	167,722	4,454	16	1	33,292	0	7
1898	168,605	15	6	161,352	7,253	1	5	30,493	15	3
1899	173,130	0	4	161,058	12,071	16	7	25,675	0	1
1900	169,431	17	10	159,911	9,519	18	4	28,226	18	4
1901	172,015	0	7	159,201	12,814	0	3	24,444	14	4
1902	171,301	7	10	160,000	11,301	5	5	25,550	14	1
1903	171,199	7	7	163,619	7,580	4	0	29,068	8	0
1904	170,044	1	4	165,084	4,959	11	10	29,596	1	3
1905	171,856	19	2	164,869	6,987	6	10	26,773	5	11
1906 (approximate figures)	170,834	0	0	166,920	3,914	0	0	29,810	0	0
Totals	3,990,527	6	6	3,757,105	247,332	16	4	615,781	18	8

Bankruptcy Estates Account.

The payments into and out of the Bankruptcy Estates Account in respect of estates under the Act of 1883 and prior Acts for the periods ended 31st December 1900 to 1905 have been as follows:—

	1900	1901	1902	1903	1904	1905
	£	£	£	£	£	£
Payments in	1,347,750	1,383,993	1,240,891	1,131,821	1,285,896	1,158,310
Payments out	1,301,354	1,423,595	1,268,177	1,241,728	1,243,465	1,220,584

Changes in Official Staff.

It is with sincere regret that I have to record the death of Mr. Edwin Hough, late Inspector-General in Bankruptcy, which took place on the 30th April last. Mr. Hough entered the service of the Board in 1867, and was for sixteen years in the Commercial Department. He took an active part in assisting in the preparation of the Bankruptcy Act of 1883, and was appointed Chief Clerk of the Bankruptcy Department on its formation. He was subsequently made an Inspector in Bankruptcy, and upon the retirement of Mr. John Smith, C.B., in January 1904, was appointed Inspector-General in Bankruptcy. By his death the department has lost the services of a zealous and able official, who devoted all his energies to the performance of arduous duties.

Mr. William Evans, formerly the Official Receiver for the Chester and North Wales District, and for seventeen years Inspector of Official Receivers, has been appointed to succeed Mr. Hough as Inspector-General in Bankruptcy.

Changes in the staff of the Official Receivers were caused by the death of Mr. Thomas Bullock (Hanley and Shrewsbury) and of Mr. F. Aston Dawes (Salisbury) and by the retirement of Mr. A. S. Maples (Hull and Grimsby).

The following list indicates the consequent changes and re-arrangement of districts:—

Name of Officer Vacating	District	Name of Successor
T. Bullock ..	Hanley, Burslem, & Tunstall Nantwich and Crewe .. Stafford .. Stoke-on-Trent and Longton Shrewsbury	F. T. Halcomb
A. S. Maples ..	Madeley Newtown Hull	F. Carliss
F. A. Dawes ..	Great Grimsby Salisbury Dorchester Yeovil Poole	C. H. King J. F. Winttingham Tilney Barton Transferred to Portsmouth

Appointment of Departmental Committee.

A Committee has been appointed by the President of the Board of Trade, and is now sitting, for the purpose of taking evidence and reporting upon various matters connected with bankruptcy and deeds of arrangement, upon

which representations from public bodies and individuals have from time to time been received by the Board. The principal questions referred to the Committee are, briefly stated, as follows:—

- (1) Investigation of bankrupt's conduct and imposition of punishment.
- (2) Provisions of law relating to discharge of bankrupts.
- (3) Refusal of certificates to bankrupt solicitors.
- (4) Realisation of property of bankrupts.
- (5) Modification of law relating to after-acquired property.
- (6) Provisions of law relating to bankruptcy of married women.
- (7) Provisions of law relating to claims under marriage settlements.
- (8) Deeds of arrangement.
- (9) Registration of assignments of book debts, hiring agreements, &c.

Bankruptcy Legislation in the Colonies.

By a Transvaal Ordinance (No. 5 of 1905) Article 149 of Law No. 13 of 1895, which provided that crimes of fraudulent and culpable insolvency shall be tried before a jury, is repealed; power is given to the Lieutenant-Governor to appoint an Insolvency Commission; and a new tariff of fees chargeable by the Master in insolvency and liquidation matters is substituted for that previously in force.

I am,

Sir,

Your obedient Servant,

H. LLEWELLYN SMITH.

Board of Trade,
2nd October 1906.

ANNEX No. 1.

Report by the Inspector-General in Bankruptcy on the general working of the Bankruptcy Acts, 1883 and 1890, for the year ending 31st December 1905.

To the Secretary of the Board of Trade.

SIR,

I have the honour to submit, for the information of the Board of Trade, the following Report on the administration of the Bankruptcy Acts for the year ending 31st December last.

Amount of Insolvency.

The following figures furnish a tabular view of the total amount of insolvency in England and Wales under the Bankruptcy and Deeds of Arrangement Acts for the years 1896 to 1905 respectively:—

Under the Bankruptcy Acts, 1883 and 1890.

—	Number of Receiving Orders and Administration Orders. (Sec. 125)	Liabilities as estimated by Debtors	Assets as estimated by Debtors	Estimated Loss to Creditors*
		£	£	£
1896	4,170	5,919,197	2,339,936	5,139,218
1897	4,098	5,771,557	2,802,602	4,837,356
1898	4,310	6,827,728	2,622,492	5,953,564
1899	4,111	5,925,222	1,937,170	5,279,499
1900	4,410	6,479,315	2,603,238	5,611,569
1901	4,244	6,794,320	3,242,445	5,713,595
1902	4,202	5,569,669	2,770,881	4,646,042
1903	4,286	5,320,967	2,535,432	4,475,823
1904	4,546	6,961,836	2,803,594	6,027,305
1905	4,764	5,915,867	2,343,627	5,134,658
Increase during past year	218	—	—	—
Decrease do. ..	—	1,045,969	459,967	892,647

Under the Deeds of Arrangement Act, 1887.

—	Number of Deeds	Liabilities as estimated by Debtors	Assets as estimated by Debtors	Estimated Loss to Creditors†
		£	£	£
1896	3,271	4,479,883	2,338,707	3,076,659
1897	3,208	3,980,615	1,910,492	2,834,320
1898	3,246	3,846,759	1,978,927	2,659,404
1899	2,974	3,371,666	1,774,321	2,307,073
1900	3,354	4,263,610	2,486,913	2,771,462
1901	3,369	4,000,441	2,255,012	2,647,434
1902	3,305	4,483,128	2,756,744	2,829,082
1903	3,622	4,354,315	2,505,669	2,850,914
1904	4,085	5,124,521	2,966,743	3,344,475
1905	3,839	3,758,603	2,046,955	2,530,430
Increase during past year	—	—	—	—
Decrease do. ..	246	1,365,916	919,788	814,045

* Taking the costs of, and loss on, realisation at an average of 66½ per cent. of the assets (*see* Annual Report for 1898, p. 4).

† Taking the costs of, and loss on, realisation at an average of 40 per cent. of the assets (*see* Annual Report for 1898, p. 4).

Total of Bankruptcy and Deeds of Arrangement.

—	Number of Cases	Liabilities as estimated by Debtors	Assets as estimated by Debtors	Estimated Loss to Creditors
		£	£	£
1896	7,441	10,399,080	4,678,643	8,215,877
1897	7,306	9,752,172	4,713,094	7,671,676
1898	7,556	10,674,487	4,601,419	8,612,968
1899	7,085	9,296,888	3,711,491	7,586,572
1900	7,764	10,742,925	5,090,151	8,383,031
1901	7,613	10,794,761	5,497,457	8,360,939
1902	7,507	10,052,797	5,527,625	7,475,124
1903	7,908	9,675,282	5,041,101	7,326,737
1904	8,631	12,086,357	5,770,337	9,371,780
1905	8,603	9,674,470	4,390,582	7,665,088
Increase during past year	—	—	—	—
Decrease do. ..	28	2,411,887	1,379,755	1,706,692

The total number of failures under bankruptcies and deeds of arrangement was 28 less than in 1904. This slight decrease is entirely accounted for by the falling off in the number of deeds to the extent of 246, as compared with the number in 1904, while the number of bankruptcies was the highest during the past ten years, and shows an increase of 218 on the number in the preceding year. There is a marked decrease under both forms of winding-up in the

estimated amount of liabilities, of assets, and of loss to creditors.

Through the courtesy of the Scotch and Irish officials I have been able to obtain particulars of failures in Scotland and Ireland during the year 1905, which may be of interest in this place. In Scotland, the failures in bankruptcy were as follows:—

Nature of Winding-up	No.	Liabilities	Assets
		£	£
Sequestrations	259	538,484	177,510
Cessions	144	32,935	7,180
Total	403	571,419	184,690

No particulars of Scotch deeds of arrangement are obtainable, the registration of trust deeds not being obligatory.

The following figures show the amount of Irish insolvency:—

Nature of Winding-up	No.	Liabilities	Assets
		£	£
Bankruptcies:—			
Dublin	145	93,339	33,597
Belfast	43	38,283	11,048
Cork	20	7,065	2,239
Total	208	138,687	46,884
Deeds of Arrangement ..	151	193,625	132,253
Grand Total ..	359	332,312	179,137

It will be observed that the failures in Scotland and Ireland are, both in number and magnitude, insignificant compared with the corresponding figures for England and Wales.

The fluctuations of insolvency in particular trades and occupations in the five years ending 1905 are shown in the comparative table forming Annex No. V. Out of 65 groups of particular trades or occupations, 20 show an increase of liabilities amounting to £969,567, while 45 show decreased liabilities amounting to £2,979,445. The largest increases were accountants £518,367 and stock and share brokers £105,287, and the principal decreases were shown in the following cases:— Bankers, £673,435; merchants, £436,465; solicitors, £320,717; metal trade, £165,137; building trade, £163,666; cotton trade, £159,943; directors and promoters of public companies, £137,871; timber merchants, £119,341. In the following trades the liabilities were over half a million pounds, viz., building, £698,517; grocery and provisions, £680,164; accountants, £619,427; beer, wine, and spirits, £607,248.

Particulars of the failures of women are given in Annex No. VI. The total number in 1905 was 496, as compared with 487 in 1904. Married women show an increase, and widows and single women a decrease in number. Seven

per cent. of the women had no occupation, as against 9 per cent. in the preceding year. The trades in which the greatest number of failures among women occurred were drapers and haberdashers, 42; milliners and dressmakers, 40; grocers, 40; publicans and hotel-keepers, 35; and lodging-house keepers, 31.

Some particulars are given in an appendix of all failures last year with unsecured liabilities of £20,000 and upwards, and in the following table there is a comparison of the number and amount of these larger failures for three years, and some classification of their origin.

Description of Failures with Liabilities of £20,000 and upwards

Ordinary Trading
Financial and Speculative Enterprise apart from Ordinary Trading
Extravagance, Gambling, &c.
Miscellaneous

	1905		1904		1903	
	No. of Receiving Orders	Liabilities	No. of Receiving Orders	Liabilities	No. of Receiving Orders	Liabilities
		£		£		£
Ordinary Trading	9	309,800	15	534,200	11	516,400
Financial and Speculative Enterprise apart from Ordinary Trading	6	839,000	19	1,954,000	13	784,900
Extravagance, Gambling, &c.	4	221,100	6	178,100	—	—
Miscellaneous	2	131,500	3	72,900	2	66,000

It will be seen that both in number and in amount of liabilities there was a return in 1905 to the reduced volume of cases of this size observed for several years, though it was interrupted by a very large increase in 1904. Last year, however, the number of cases was only 21 against 43 in 1904, and the unsecured liabilities were £1,501,400 against £2,739,200. As mentioned in previous Reports, it is sometimes difficult to classify failures with entire exactness; but taking the above classification as approximately correct, it will be seen that the reduction in the liabilities of the larger failures of last year is greatest in speculative businesses. That group continues, however, to show a marked preponderance over failures in ordinary trading; and though few in number, the unsecured liabilities of these larger failures reach fully one-fourth of the total amount of liabilities under all the receiving orders made in 1905. In applying a similar approximate classification to the smaller as well as to the large cases, it is found that though about three-fourths in number of the bankruptcies occur in ordinary trading, their liabilities barely exceed one-half of the total amount of the year; that the cases classified as "financial enterprise apart from ordinary trading" are only 7 per cent. in number, but 27 per cent. in amount of liabilities; while 6 and 14 per cent. are the corresponding figures classified as due to extravagance and gambling. The largest bankruptcy of the year was that of a person who called himself an accountant. But of the nominal liabilities, £587,000, only £30,000 was due for moneys actually received, the remaining £557,000 for bonuses and interest, with promises of which he had inveigled extremely credulous people to entrust him with their cash for investment in Rhodesian and other speculative shares.

In six cases of deeds of arrangement executed during the year the estimated liabilities exceeded £20,000; the total

liabilities in these cases was £243,095, and assets £75,755. The two largest cases were those of a seed crusher and grain merchant with liabilities amounting to £71,651, and a solicitor whose liabilities were £61,419.

SPECIAL FEATURES OF THE WORKING OF THE ACT.

Objections to Appointment of Trustees.

The total number of cases in which non-official trustees were appointed to administer estates under adjudication and section 125 orders was 740.

In 18 cases objections to the appointment of trustees elected by creditors had to be considered. Of this number 14 appointments were certified; two trustees withdrew upon being informed of the objection, and two appointments were objected to under the provisions of the Act, the ground of objection in one case being that the person appointed was not fit to act as trustee, and in the other that the nominee's connection with or relation to the bankrupt, or his estate, would make it difficult for him to act with impartiality in the interests of the creditors generally (Sub-section 2 of Section 21 of the Bankruptcy Act, 1883). These objections were not appealed against.

Removal of Trustees.

Trustees were removed from office by the Board of Trade during the year in 22 cases, on the following grounds, viz.:—Guilty of misconduct, 16 cases; failure both to render accounts and to renew security, one case; failure to render accounts, one case; failure to renew security, one case; neglect to perform his duties in that he retained moneys that should have been paid into the Bankruptcy Estates Account, two cases; incapability of performing his duties by reason of absence, one case.

The following table shows the number of removals by the Board in each of the last five years:—

	No. of Cases	No. of Separate Trustees
1901	7	8
1902	9	8
1903	44	12
1904	7	7
1905	22	6
Total	89	41

It will be observed that the large increase in the number of removals is accounted for by 16 cases of removal on the ground of misconduct. Eleven of these estates were administered by one trustee and five by another. Each of the trustees in question had retained moneys belonging to an estate administered by him, and had rendered untrue accounts, and was consequently removed from all the trusteeships held by him.

The amount recovered during the year from guarantee societies was £651 8s. 1d., and was in each case sufficient to cover the deficit on the trustee's account.

(To be continued.)

Debenture-holders and Compulsory Winding-up Orders.

THE decision of the Court of Appeal in *Re Crigglestone Coal Co., Lim.* (1906, 2 Ch. 327), taken with that of Buckley, J., in *Re Alfred Melson & Co.* (54 W.R. 468; 1906, 1 Ch. 841), will in future make it difficult for companies to avoid winding up upon the ground that all the assets are covered by debentures, and that no benefit will result to the unsecured creditors. It has been for some time a matter of doubt how far this circumstance takes a case out of the ordinary rule that a creditor who cannot get paid is entitled *ex debito justitiæ* to a winding-up order. "I agree," said Lord Cranworth in *Bowes v. Hope, &c., Guarantee Co.* (11 H.L.C., p. 402), "that it is not a discretionary matter with the Court when a debt has been established, and not satisfied, to say whether the company shall be wound up or not; that is to say, if there be a valid debt established, valid both at law and in equity. One does not like to say positively that no case could occur in which it would be right to refuse it; but, ordinarily speaking, it is the duty of the Court to direct the winding up"; a doctrine with which Lord Selborne, C., expressed his concurrence in *Re Western of Canada, &c., Co.* (L.R. 17 Eq. p. 6). The case of the company having no assets available for distribution in a winding-up was treated as constituting an exception from this rule in *St. Thomas Dock Co.* (24 W.R. 544, 2 Ch.D. 116). There whole of the property of the company consisted of the

dock and concessions, and was subject to debentures exceeding its value, so that there was no probability of the petitioner getting anything in a winding-up. This, however was not the sole ground on which Jessel, M.R., declined to make a winding-up order. The petitioning creditor was himself one of the debenture-holders, and the great majority of the other debenture-holders and also of the unsecured creditors opposed the petition. The case was one, therefore, in which the Court might properly have regard to Section 91 of the Companies Act, 1862, and be guided by the wishes of the creditors. This latter circumstance—the opposition of creditors—was treated by Jessel, M.R., as a ground for refusing the order in *Re Uruguay, &c., Railway Co. of Monte Video* (11 Ch.D. 372), where a bondholder for £600, who petitioned for winding up, was opposed by bondholders for £142,700. "I agree," said Sir George Jessel, "that, as a general rule, a creditor is entitled to a winding-up order *ex debito justitiæ*; but that rule is not without an exception; and if ever there was a case of exception I think I have it here."

Both the above circumstances—the non-existence of available assets and the opposition of other creditors—were made the ground for dismissing the petition in *Re Chapel House Colliery Co.* (31 W.R. 933, 24 Ch.D. 259). "A winding-up order," said Cotton, L.J., "is the means of having the assets of a company applied in payment of its debts, and therefore a creditor generally, where the company is insolvent, is entitled to the order as a matter of right. But this assumes that a winding-up order will help him to obtain payment, and in a case where there are no assets which the liquidator can receive, the reason fails"; and he added that the principle laid down by Lord Cranworth and Lord Selborne in fact amounted to this, that if there were assets it was as a general rule the right of the creditors to have them made available by a winding-up order. Bowen, L.J., said: "The case may be decided on the simple principle that no one can be entitled to ask for a winding-up order when it is impossible that he should obtain anything by it." The granting of a winding-up order was in fact, he observed, equitable execution, and there was no right to it when there was nothing on which the equitable execution could take effect. There was the second ground, that an overwhelming majority of creditors were opposed to a winding-up, and hence Section 91 allowed the Court, in deference to their wishes, to dismiss the petition. Bowen, L.J., considered, however, that the absence of available assets was sufficient.

But the modern extension of the system of covering the whole of a company's assets with debentures, and the facilities which this affords for enabling debenture-holders to profit at the expense of unsecured creditors, has led to a new view being taken of the right of an unsecured creditor

to a winding-up order as against the debenture-holders. It is not enough to rebut this right that the assets are apparently all required for the debenture-holders' debt. The winding-up, even if it does not produce anything for the unsecured creditors, may lead to incidental advantages which are sufficient to justify the making of a compulsory order. In *Re Krasnapolsky Restaurant, &c., Co.* (40 W.R. 639; 1892, 3 Ch. 174), Vaughan Williams, J., considered that there was a reasonable prospect of there being assets available for the unsecured creditors; but in addition to this he was influenced by the power of investigating the affairs of the company conferred by the Companies (Winding-up) Act, 1890. If a *prima facie* case is made out on the affidavits that an investigation into the formation or promotion of the company or the issuing of debentures or shares is required, that alone is an advantage to the unsecured creditors, and is a sufficient ground for making the order. A still greater departure from the former rule was made by Warrington, J., in *Re Chic, Lim.* (54 W.R. 659; 1905, 2 Ch. 345), where he made a winding-up order, not with a view to securing any benefit for the unsecured creditors, but to put an end to a state of affairs in which the debenture-holders were carrying on business for their own benefit in the name of the company. A winding-up order, he said, was the only way by which a company which had come to be merely *nominis umbra* could be got rid of, and he referred to the remarks as to the injustice sometimes occasioned by debentures which were made by Buckley, J., in *Re London Pressed Hinge Co.* (53 W.R. 407; 1905, 1 Ch. 576).

Then came *Re Alfred Melson & Co., Lim.* (54 W.R. 468; 1906, 1 Ch. 841), before Buckley, J., which was fully discussed in these columns at the time it was decided (*ante*, p. 478), and in which again the idea that a winding-up must be refused if it would produce nothing for the debenture-holders was set aside. The learned Judge observed that *Re St. Thomas' Dock Co.* and *Re Chapel House Colliery Co.* (*supra*) were decided before debentures had reached their modern development. Moreover, he considered that the predominant idea in them was that, as between the petitioning creditor and opposing creditors, the petitioner was not entitled to his order *ex debito iustitie*, but that the Court ought under Section 91 of the Act of 1862 to regard the wishes of the opposing creditors. At any rate he did not think that there existed in those cases anything which obliged him to say, particularly in the modern state of facts as regards debentures, that the Court is bound to exercise its discretion by refusing at the instance of the company to make the order merely upon the ground that it will not produce anything for the unsecured creditors.

The present case of *Re Crigglestone Coal Co.* (*supra*) represents still more strongly this tendency to order a compulsory winding-up, notwithstanding that the debenture-holders apparently will take the whole of the assets for their own

debt. The judgment of Buckley, J., is interesting for the new way in which he treats the so-called exceptions from the rule that a creditor who cannot obtain payment is entitled *ex debito iustitie* to a winding-up. The case of there being no assets is in fact no exception. It simply, he says, carries the result that there is nothing upon which the equitable execution implied in a winding-up can attach. "If the right is to seize the debtor's assets by the hand of a liquidator, it is no exception to say that there is no such right when there are no assets. There cannot be a right to seize nothing." And similarly the exception in the case where other creditors oppose is, when properly considered, no more than a statement of the rule in its true form. The petitioning creditor's right to a winding-up order is not an individual right, but a class right, and hence it does not arise when the class in whose interest he is supposed to ask for the order do not desire it. This mode of defining the right to a winding-up left it open, so Buckley, J., held, for the Court to grant a winding-up order if it was likely to be useful, whether it would be fruitful or not, and to grant it at the desire of an unsecured creditor notwithstanding the opposition of secured creditors, and notwithstanding also the fact that it would be a cause for forfeiture of the lease which constituted their security. This was an incident of the security which they could avoid by paying the petitioning creditor's debt, and since his debt was for the price of goods which had gone into the debenture-holders' security, such a result would not have been inappropriate. The immediate advantage to the unsecured creditors which the learned Judge saw in a winding-up was that, in the debenture-holders' action which was pending, the control of the company's defence would be in the liquidator acting on their behalf. The unsecured creditors would, therefore, have their interests protected in regard to taking the account of what was due on the debentures, and in regard to any questions which might arise as to the issue of the debentures and the realisation of the property.

The Court of Appeal in affirming the decision of Buckley, J., in *Re Crigglestone Coal Co.* did little more than endorse the reasons given by that learned Judge, though it was contemplated that the result of the winding-up might in fact be to realise a surplus for the benefit of the unsecured creditors. "If," said Collins, M.R., "there is a reasonable probability, or even a reasonable possibility—I think it may be put as high as that—that the unsecured creditors will derive any advantage from a winding-up, the order ought to be made in order that they may be heard in the debenture-holders' action, and not have the proceedings left in the hands of other persons who are antagonistic to their interests." And both Romer, L.J., and Cozens-Hardy, L.J., contemplated the possibility of there being a surplus for the unsecured creditors. It may be suggested, however, that neither this case nor *Re Alfred Melson & Co., Lim.* (*supra*)

require that such probability or possibility should be proved to the Court as a condition of obtaining the winding-up order. The rule that the existence of assets must be proved appears to have gone. It may be that where there are no available assets, and it is clear that no incidental advantages can accrue to the creditors or the public from a winding-up order, the order will be refused. But unless this is so it will, apparently, be granted either, as in *Re Crigglestone Coal Co.*, because the creditors are entitled to any advantages which may flow from the order in giving them facilities for investigating the affairs of the company or controlling the realisation of its property, or, as in *Re Alfred Nelson & Co.*, because it is not in the public interest that a company which has in substance ceased to exist should be used as a name for the debenture-holders' business.

(*The Solicitors' Journal.*)

State Banks.

THE evidence given by Mr. A. St. George Ryder, J.P., R.P.A., before the Land Banks Commission, as reported by the *Johannesburg Star*, is of a very interesting character. As to the advisability of establishing a Land Bank in the Transvaal, Mr. Ryder says:—

"It appears to be necessary to not rely too much upon theoretical propositions and quotations from the history of such banking institutions in other countries, but rather to consider the conditions prevailing in our own Colony with respect to their bearing on the subject, particularly with regard to the means and necessities of our farmers. The extent and nature of accommodation granted to them by the local banks and finance companies, the extent to which such accommodation could with safety be supplemented, the nature and extent of the support likely to be accorded by farmers to such an institution if established. The terms upon which a volume of safe and payable business could be secured sufficient to justify the establishment of such a bank, and to ensure its success as a beneficial and economical factor in promoting and aiding the development and progress of farming industries in the Transvaal. The maximum rate of interest farmers could afford to pay for accommodation extended to them by the bank and yet secure themselves some useful measure of advantage over the existing state of affairs. The minimum rate of interest the bank would need to earn on its loans in order to cover its working expenses, inclusive of capital charges and the usual provision for contingencies, and the possibilities of obtaining capital funds for the bank's purposes at a sufficiently cheap rate to enable its charges for loans to be fixed low enough to meet the circumstances of the case, while at the same time preserving sufficient margin to not only constitute it a self-supporting institu-

tion, but also to render feasible the gradual accumulation of a reserve with the object of ultimately dispensing with the necessity for any State aid or guarantee."

The difficult questions of management, organisation, the raising of capital, are all handled in an instructive manner, and the witness's points in favour of such an institution are well made.

As to the all-important question of interest, he says:—

"The rates of interest to be charged on loans should be kept as low as possible, but must necessarily depend to some extent upon the rate at which the bank can borrow. If this can be arranged at 3 or 3½ per cent., as has been done in other cases, there should not be any reason why more than 5 per cent. need be charged on land loans, plus, say, 1 or 1¼ per cent. for sinking fund, and 5½ to 6 per cent. interest only on other loans or advances according to amount and duration.

About 2 per cent. would probably be required at first as a margin between the borrowing and lending rates, to cover the expenses of management and administration, plus a reserve fund and contingencies, but the ratio of expenses would decrease considerably after the third year, so that ultimately 1¼ to 1½ should be ample margin on the employment of any capital sum upwards of £1,000,000; and less when the £2,000,000 stage is reached.

"Interest on short loans and advances should be computed and charged quarterly, and on land loans collected half-yearly.

"Redemptions should be effected as far as possible by instalments payable together with interest and computed on a graduated scale, increasing by degrees corresponding to the ratio of decrease in interest, so as to equalise the payments.

"In cases where loans are granted for the purpose of effecting reproductive improvements time should be allowed for benefit to accrue before the borrower would be called upon to commence payments in redemption of principal. Three years should be ample time to allow in all cases, during which period the borrower would pay interest only.

"As an alternative to redemption by equalising instalments combining both interest and principal, borrowers should have the option of reducing the amount of their loan either by the payment of lump sums at fixed periods or at irregular intervals at the end of any half-yearly period by giving a few months' notice in writing of their intention to do so. Under these circumstances interest would accrue on the balance only as adjusted from time to time.

"No very hard and fast rules, however, should be made with regard to such matters, and much should be left to the discretion of the board to deal with each case on its individual merits. Otherwise unnecessary hardships

might be inflicted upon borrowers by compelling them to keep up the payment of heavy instalments during periods of heavy depression, without any material advantage to the bank. Whereas with an elastic system they could minimise their expenditure in times of distress by paying interest only, which they could still further reduce by paying off convenient portions of the principal as opportunity offered during periods of prosperity.

"Each loan should be limited to half, or certainly not more than three-fifths, of the ascertained value of the security, and some limit ought also to be placed upon the amount that should be advanced to any one borrower."

Personal.

MR. A. J. BAXTER, Chartered Accountant, announces that he has begun practice at 63 Cornhill, London, E.C.

MESSRS. BRUCE-CUVILJE & Co., Chartered Accountants, announce that they have removed from Great St. Helen's, to 59 Gracechurch Street, London, E.C.

MESSRS. COLEFAX, HEAD & Co., Accountants, of 2 Aldermanbury, Bradford, announce that the partnership hitherto subsisting under the style or firm of COLEFAX, HEAD & Co., has been dissolved by mutual consent. Mr. JOSEPH SAMUEL COLEFAX and Mr. RICHARD HEAD will continue practice at No. 2 Aldermanbury, Bradford, under the same style or firm of COLEFAX, HEAD & Co., and Mr. NIGEL ROBERTS DICKINSON will resume practice at No. 23 Sunbridge Road, Bradford.

MESSRS. SARGENT, PAGE & TAYLOR, Chartered Accountants, of 23 College Hill, Cannon Street, London, E.C. announce that they have amalgamated their business with that of Messrs. HUDSON SMITH, BRIGGS & Co., Chartered Accountants, of Bristol and London. The London practice will be carried on, under Mr. ARTHUR TAYLOR'S supervision, in their present offices as above.

MR. WILFRED T. WALTERS, F.S.A.A., has been appointed by the Yeovil Town Council professional auditor of the Corporation Accounts.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, Oct. 12th, was 153, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 76; Deeds of Arrangement registered, 77. The respective numbers in the corresponding week of last year were: Bankruptcies, 107; Deeds of Arrangement, 79—total, 186; being a decrease of 33. The total number of commercial failures recorded during the 41 weeks of the present year is

6,574; the total number recorded in the corresponding 41 weeks of last year was 7,009, showing a decrease of 435.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, Oct. 12th, was 141. The number in the corresponding week of last year was 159, showing a decrease of 18. The total number filed during the 41 weeks of the present year is 5,984; the total number filed in the corresponding 41 weeks of last year was 6,579, showing a decrease of 595.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, Oct. 12th, amounted to £1,294,325, by way of addition to £2,092,726, previously issued by the same companies. The amount registered in the corresponding week of last year was £729,567, showing an increase of £564,758. The total amount registered during the 41 weeks of the present year was £64,811,674 (in addition to the issues in previous years by the same companies), as compared with £61,688,033 for the corresponding 41 weeks in 1905, showing an increase of £3,123,641.

The Profession in Scotland.

The Glasgow Chartered Accountants Students' Society.

Syllabus, Eighth Session, 1906-7.

Secretary.—Joseph Allison, Junr., 209 West George Street, 1906

Oct. 22.—Lecture, "How to read the Balance Sheet of a Commercial Concern:

(a) From the point of view of a financial expert, dealing in this connection with 'Working Capital,' 'Fixed Capital,' and the gauging of the position of a Company from its Certified Balance Sheet.

(b) From an Auditor's point of view, in respect of clear stating."

By F. W. Pixley, F.C.A. Chairman: John Mann, Junr., C.A.

Nov. 8.—Debate, "Has Trade Unionism retarded the growth of Commerce in Great Britain." Affirmative, Chas. S. Forsyth, C.A.; Negative, R. Kyle Thomson, B.L., C.A. Chairman: David Allen Hay, C.A.

„ 22.—Lecture, "Special points arising in the audit of the First Balance Sheet of a Limited Company formed to acquire a going business." By Matthew Mitchell, C.A. Chairman: David Strathie, C.A.

- Nov. 29.—Lecturettes, "Hire Purchase Accounts." By John H. Fraser, C.A.; "The Accountant in the East." By James M. Hart, C.A. Chairman: James A. French, C.A.
- Dec. 5.—Joint Meeting with Glasgow Juridical Society. Particulars of which will be issued to the members.
- " 13.—Annual Dinner.
- 1907
- Jan. 10.—Lecture, "Further Reforms in Company Law." By H. P. Macmillan, Advocate. Chairman: Matthew Mitchell, C.A.
- " 24.—Lecture, "The Accountant as an Expert Witness." By Alex. Moore, Junr., C.A. Chairman: Peter Rintoul, C.A.
- Feb. 7.—Debate, particulars of which will be issued to the members." Chairman: John M. Maceachern.
- " 21.—Lecture, "Fee and Liferent and Appropriation." By John A. Todd, B.L. Chairman: Joseph Patrick, C.A.
- Mar. 14.—Annual Meeting. Chairman: David Allen Hay, C.A.

The meetings of the Society will be held in the Accountants' Hall, 218 St. Vincent Street, at 8 p.m.

Edinburgh Sheriff Court.

(Before Sheriff-Substitute GARDNER-MILLAR.)

October 12.

Rutherford v. Thyne.

Law Agents and Notary Public Act, 1891—Alleged Contravention of Section 2.

Judgment was given by Sheriff-Substitute Gardner Millar in Edinburgh Sheriff Court in connection with the case in which a complaint was made against an Edinburgh bank agent. The complaint was made at the instance of Robert Sinclair Rutherford, solicitor, Edinburgh, Secretary and Fiscal of the Society of Procurators for Mid-Lothian, against David S. Thyne, agent of the Union Bank of Scotland, Lim., Murrayfield branch, on the ground that being neither a law agent nor a notary public he had been guilty of an offence within the meaning of Section 2 of the Law Agents and Notary Public Act, 1891, in so far as he in March 1906, having entered a contract of co-partnership with Forbes Wallace, solicitor, Edinburgh, for the purpose of carrying on a law agent's business within the premises of the bank and elsewhere to the prosecutor unknown, did (1) on or about 12th March issue to customers at the bank, and other members of the public specified, a printed circular informing them that Mr. Forbes Wallace, solicitor, would on and after 12th March be associated with him in the business under the firm-name of Thyne & Wallace. It went on to state, it was said, that Mr. Wallace had upwards of seven years' legal experience, and while respondent would continue to take entire charge of the bank business, Mr. Wallace would attend to all law matters. The second count averred that he had fixed to the door of the premises two brass plates in juxtaposition, bearing the words "Thyne & Wallace. F. T. Wallace, solicitor. Law office hours, 9.30 till 5," while in the third part it was stated that during the period

subsequent to 12th March he carried on the business of a law agent in co-partnership or in conjunction with Wallace, whereby he either by himself or in conjunction with Wallace wilfully and falsely pretended to be duly qualified to act as a law agent. The Sheriff-Substitute has found the complaint irrelevant, and has dismissed it. His Lordship said it seemed clear to him that under this section of the Act any complaint must set forth in the first place that there was a pretence or device wilfully and falsely put forward; and, secondly, that the object of that must be to set forth that respondent held himself as being a duly qualified law agent. It seemed to him that the circular merely intimated to the public that the respondent and Mr. Forbes T. Wallace had entered a partnership to carry on two businesses, one that of a bank agent, and the other that of a law agent in Edinburgh, and that it set forth that the one partner would give his exclusive attention to the one business and the other partner his to the other business. If the partners continued to act as set forth in the circular obviously there would be no breach of statute, because Mr. Thyne therein stated that while he would take entire charge of the bank business, Mr. Wallace would attend to all law agent's matters. He held that where the representation was that the respondent would not do any of the law agent's work, that excluded him from liability under the statute. With regard to the two door-plates, it seemed to him that there the separation of the two businesses was continued. His Lordship was asked to state a case for appeal.

Bank Rate of Discount.

April 5th 1906	..	..	..	..	..	..	3½%
May 4th "	..	..	..	..	..	..	4%
June 21st "	..	..	..	..	..	..	3½%
Sept. 13th "	..	..	..	..	..	..	4%
Oct. 11th "	..	..	..	..	..	..	5%

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TABLE "A."

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Leading Articles.

The Incorporated Accountants' Congress.—I.

IN our issue of the 13th inst. appeared a full
report of the proceedings commemorative
of the twenty-first anniversary of the founda-
tion and incorporation of the Society of Accoun-
tants and Auditors, from which it will be
gathered that these proceedings were of a
highly interesting character, and that the
Congress proved most successful. The address
of the President, Mr. W. G. RAYNER, on

"The Position and Progress of the Accountancy Profession," was perhaps a little disappointing, containing as it did little but a bare *résumé* of facts that must be more or less common knowledge to our readers. The discussion that followed upon the subject of "Legislation for the Profession" struck, however, an altogether different note, and most of the speakers had something to say that was worth hearing. Upon this subject of legislation, the general view appeared to be that during the past dozen years, or so, there had been a somewhat marked alteration in the general opinion of professional accountants, both Chartered and Incorporated, with regard to the need for united action, and the majority of the speakers were very careful to frame their utterances in an amicable spirit. The exception was, however, provided by Mr. CHAS. H. WILSON, who stated that the joint Bill promoted by the Councils of the Institute and the Society in 1892, although opposed by the members of both bodies and not proceeded with, did away with one of the questions that Incorporated Accountants were constantly having to deal with outside London—that there was a superiority in the one body not to be attained by the other body. We do not wish to say anything that might tend to revive an altogether unprofitable controversy, but we should like to point out that the avowed reason why the majority of Chartered Accountants refused to support this Bill was that it placed them upon an equality with Incorporated Accountants. The mere fact, therefore, that the Bill had been promoted by the Councils of both bodies can hardly be regarded as "settling" in one way or the other the question of any superiority or inferiority. We venture to think that most impartial persons must

recognise that any form of legislation for the profession as a whole must be more advantageous to Incorporated Accountants than to Chartered Accountants, and this fact has, doubtless, proved the stumbling-block to any united action in the past. The difficulty is, we think, not likely to be got over by ignoring its existence; rather should it be frankly faced, and such sacrifices as individuals may be called upon to make should be made, irrespective of personal feeling, for the common good. One of the most reassuring signs of the times is, we think, not that Incorporated Accountants are desirous of legislation for the profession—for that they have always been, and a unanimous resolution upon that subject could, we imagine, have been passed at any general meeting convened by them during the past twenty-one years—but that an increasing number of Chartered Accountants recognise that such legislation would be to their advantage also (although, perhaps, less to their advantage than to that of those who are not members of the leading body), and is desirable—personal interests apart—for the protection of the community against unqualified, and in some cases wholly unscrupulous, persons who are able in the present confusion to successfully pose as professional accountants, and thus in too many cases to deceive the public.

The resolution standing in the name of Mr. CHAS. H. WILSON—expressing the regret of the Conference that effect had not been given to the recommendations of the 1903 Select Committee on Municipal Trading—gave rise to a discussion of very considerable interest, although it was not received with anything like the unanimity that marked Mr. MARTIN'S motion. In the view of those present there is apparently ground for

hoping that the present Government may adopt the recommendations of this Committee, which their predecessors in office refused to accept. The action of the President of the Local Government Board, in appointing a Committee of his own to reconsider some of the points already dealt with and settled in 1903, appears to us to hardly justify even the hope that he proposes to deal with the question of audit after the present inquiry as to the most suitable form for the accounts has been concluded. Doubtless any body of professional accountants in conference assembled would be found to be overwhelmingly in favour of a professional as opposed to an official audit, and there could be no possible harm in their giving expression to their views. At the same time we question whether these views are likely to carry much weight unless supported by arguments likely to appeal to those who have no such obvious bias in the direction of attracting new business. The anxiety of certain members that, if professional auditors were appointed, they should be appointed from among local practitioners, and not sent down from London, betrays the somewhat evident self-interest that underlies much of this discussion. But a good point was made by Mr. T. KEENS, who pointed out that there is in most public bodies an opinion that accountants are people who object *in toto* to every phase of municipal trading; which although, of course, absurdly exaggerated, provides food for thought. In the nature of things the accountant says but little where everything is bright, and only expresses himself at length when the need for him to give the watch-dog's warning is apparent. Those who have little or no experience of accountants thus often—perhaps not unnaturally—jump at

the conclusion that they are meddlesome people, who are always objecting to what is being done, for the simple reason that they rarely hear of them except in connection with some objection. The impression is not, of course, justified by fact, but that it exists is beyond dispute. If more professional accountants were to take an interest in public life, and to seek membership of county and borough councils, their value for constructive purposes of organisation, as well as for destructive purposes of criticism, would be more generally appreciated. There are probably few professional men who take less interest in local government than accountants, and if as a result of this neglect members of local authorities should think that they get on quite well without the assistance of professional accountants, it can hardly be said that the fault is entirely upon their side.

It is noteworthy, however, that in spite of all this the opposition to replacing official or elective audits by professional audits does not come from the local authorities themselves, but from the central department. It the hostility of the Local Government Board, and not the reluctance of county, town, or borough councils, that has to be overcome—that is to say, before anything can be accomplished one has to persuade the Local Government Board to commit suicide so far as its audit department is concerned. Put this way it will be obvious that the reluctance of the Department to fall in with the profession's desires is at least comprehensible; and we are very glad, therefore, to observe that one at least of the speakers at this Conference—Mr. F. WALMSLEY—advocated the view that we have consistently put forward in these columns: that, while the *audit* of

accounts should be entrusted to qualified professional accountants, the *supervision* of all local authorities should remain with inspectors of the Local Government Board, whose duty it should be (with the assistance of the auditor) to see that no local authority exceeds its statutory powers. There is plenty of work in connection with the control of local authorities which it would be quite improper to depute to professional auditors, but which could be very much more efficiently performed by Government inspectors if they had access to full auditors' reports compiled after a complete and detailed examination of all books of account ; and if once the Department can be made to appreciate this fact, there is, we think, good ground for hoping that it may become converted to the advantages of a professional audit in connection with the accounts of all local authorities.

The Law Society's Congress.

A few notes upon the recent Conference of the Law Society at Manchester will not be without interest to our readers. In the course of his presidential address Mr. HENRY ATTLEE dealt *inter alia* with the question of legal procedure, and stated that the reason why the work of the Law Courts decreased yearly, while the work of commercial arbitrators increased, was that more businesslike despatch and greater freedom from technicalities was required, which could only be satisfactorily obtained by a thorough reform of the whole system of procedure. That business men are disgusted with the delay attending the operations of the law is well known, while the enormous pecuniary risks involved naturally prevent prudent persons having recourse to litigation unless some really considerable sum

is at stake. With regard, however, to freedom from technicalities, it is, we think, somewhat debatable whether this tells in favour of arbitration. Undoubtedly the weak part in arbitration, speaking generally, is the tendency of arbitrators to disregard legal rights, and dispense crude ideas of justice in their place—ideas which are not infrequently limited to the somewhat simple arithmetical sum involved in striking an average between the respective claims of the opposing parties. So long as a legal decision could be promptly obtained, without involving a risk in respect of costs out of all proportion to the sum in dispute, there are, we think, few business men who would not prefer the Law Courts to the Arbitration Chamber as a means of settlement for all disputes, save those involving a technical business knowledge for their due appreciation.

Passing on to the Prevention of Corruption Act, Mr. ATTLEE expressed the view that this would be wide-reaching in its effect, which he hoped would be practically to stop bribery in commerce ; and he pointed out that as an Act had now been passed declaring the taking or giving of corrupt secret commissions to be criminal, it was obvious that such acts by a solicitor would amount to professional misconduct exposing him to the risk of being struck off the rolls. One would have thought that the expression "professional misconduct" was sufficiently wide to cover admittedly disreputable practices without waiting for them to be expressly declared by the Legislature to be criminal ; but, however that may be, the practical working of the Act, not merely with solicitors, but with regard to all members of the community, will be watched with no little interest. It is important to bear in mind that the mere receipt of a commission without all

necessary disclosure is not declared to be a crime *per se*. It is only if the commission be *corruptly* offered or received, or solicited, that the terms of the Act apply; and, if the qualification "corruptly" be interpreted too narrowly, the whole Act may easily become a dead letter.

In his paper on "Suggested Amendments in Company Law" Mr. JAMES W. REID—whose name will doubtless be familiar to our readers as that of the author of one of the earliest handbooks published on the Companies Act, 1900—struck a somewhat novel note, which, however, reflects the latest attitude of the Courts with regard to company matters. Mr. REID's view is that far too much has been made of the woes of misguided shareholders, and he considers that any further amendments of the law should be in the direction of giving increased protection to unsecured creditors. There is undoubtedly a great deal to be said in favour of this point of view; but, if it is to be logically acted upon, it cannot stop short at the mere abolition of the existing statutory right of a company to create a charge over after-acquired chattels. If it once be recognised—as it undoubtedly should have been long ago—that the shareholders of an insolvent company are debtors who cannot pay their debts, and who cannot be made to pay their debts because the law has granted them the privilege of limited liability, the absurdity of allowing these defaulting debtors to have the conduct of the liquidation of the company's affairs must be at once apparent. Even in the unusual case of the company's assets showing a surplus available for return to the shareholders after providing for all outstanding debts and the costs of the liquidation, there is no more reason why the shareholders should control the winding-up than that a bankrupt should have

the nomination of his own trustee in cases where his statement of affairs shows a surplus. Under the existing procedure secured creditors are invariably entitled to realise their security in their own way, practically without considering the interests of those whose claims must be postponed to their own; and if this be equitable with regard to secured creditors, it is at least equally equitable with regard to unsecured creditors. In point of fact, however, the case in favour of the unsecured creditors invariably appointing their own liquidator is far stronger; for there can be little doubt that in practice voluntary liquidations are frequently arranged with friendly non-professional liquidators for the express purpose of comfortably burying irregularities and concealing misfeasances which, if disclosed, would involve the promoters or directors, or both, in considerable pecuniary liability. It ought not to be necessary for unsecured creditors to invoke the altogether unsuitable machinery of a compulsory liquidation in order to secure the appointment of a liquidator reasonably likely to have proper regard to their interests.

Among the few resolutions passed at this Conference was one advocating the advancement and the shortening of the Long Vacation, and confining it to the months of August and September. While doubtless these are the dates which would best suit the convenience of most business men, inasmuch as the Bar had already expressed a wish that the Long Vacation should not end before the middle of October it may, we think, well be questioned whether it was altogether politic for the Law Society to arrive at a different conclusion. If all lawyers were unanimous upon the question of a change, there would, it seems to us, be a far greater prospect of some definite action being taken by

the Lord Chancellor, for a want of such unanimity is always the best possible argument in favour of retaining the *status quo*.

Mr. J. S. RUBINSTEIN succeeded in securing the passage of a resolution to the effect that the experiment of registration of land titles in the County of London having proved a failure, it is desirable that it should be abandoned. While sympathising with this view, we must confess that we question very much whether it is not altogether waste of time to thus continually batter one's head against the brick wall of officialism. There is, so far as we can see, absolutely not the slightest chance that the numerous friends of highly-placed persons who have been found billets in the Land Registry Office during the last administration will now be disbanded, solely because their services are found to be valueless to the community. There is, so far as we are aware, absolutely no precedent to justify any such expectation, and that being so it seems to us waste of time to rail against the inevitable.

A member from Leeds proposed a resolution, which however was not passed, the effect of which would have been to make it virtually compulsory for all solicitors to employ the Double Banking Account form of bookkeeping; and his method of dealing with his motion aroused a somewhat discordant note which, for the time at least, seemed likely to seriously threaten the harmony of the proceedings. In reply, the President pointed out that the Law Society had no power to dictate to individual members upon such matters; but, had he thought fit, Mr. ATTLEE might have made a very much stronger case in reply to the allegation that the Council had done nothing whatever towards endeavouring to secure better methods of accounting for solicitors. The

Society is, it seems to us, following the only course reasonably open to it—in the absence of a specific statutory power to compel solicitors to keep adequate accounts upon such lines as it may think best—namely, by gradually educating future generations of solicitors through the medium of the Society's examinations. Intermediate candidates are now required to possess at all events some knowledge of accounts; and, if that knowledge is properly imparted to them, it can hardly fail to have a lasting effect, as showing clearly the importance of accounts *per se*, and the great value and the enormous saving of time that they must be to all business men. The text-book now officially prescribed has, we understand, been written more or less at the suggestion of the Examination Committee, and describes a system of accounts for solicitors which, if not incapable of improvement, at least serves the fundamental purpose of showing how it is possible, without any additional complication of accounts, to keep clients' moneys altogether distinct from the solicitor's own moneys. In the course of a very few years the ideas thus inculcated will be the accepted beliefs of the rising generation of solicitors, and will prove more useful for all practical purposes than any cut-and-dried system of accounts that may be thrust down the throats of solicitors against their own convictions, or, it may be, prejudices, by those in authority. What is wanted in the matter is undoubtedly a more widespread knowledge among solicitors of the importance of an adequate system of accounting, of the advantages that it brings in its train, and of the dangers that attend its neglect; and we know of no more effective way of bringing these points home than through the means adopted by the Council of the Law Society—those of education.

Check Figures.

THE correspondence on the subject of check-figures that has appeared in these columns during the past few weeks will have been read with interest by our readers, who will be especially grateful to Mr. N. W. MITCHESON for the detailed information that he has been good enough to supply. We cannot, of course, say whether all systems of check-figures are based upon some method similar to that described by Mr. MITCHESON, for, as our readers will be aware, there is a somewhat remarkable reticence upon the subject among those who claim to be most competent to speak with authority. In the meantime, we can only deal with the matter upon the information available, and if the deductions that we draw from this limited data should prove too general, doubtless someone will set us right, and in that way, perhaps, further information with regard to this process of sectional balancing will be forthcoming.

Although it may not be at once apparent to the casual observer, the system described by Mr. MITCHESON fixes the check-figure at the difference between the amount in question and the nearest amount that is the exact multiple of 13. By employing the nearest multiple under the amount for credit items, and the nearest multiple over the amount for debit items, different check-figures are obtainable, complementary to each other upon the basis of 13, which enable errors of posting to the wrong side of the Ledger to be more readily detected. A question that very naturally arises at this point is as to why 13 is selected. There is no very special virtue about the figure 13, and, as a matter of fact, any other figure might be

employed, although (as we shall show shortly) 13 seems likely to produce the most satisfactory results. As a very elementary example of what we mean, and as showing the basis of the whole matter, we may draw attention to the somewhat rudimentary principle that when even numbers are added together the result will invariably be even; and that when odd numbers are added together the result will be even if there be an even number of odd numbers, and odd if there be an odd number of odd numbers; and that when odd and even numbers are added together the total will be odd or even, according to whether there be an odd or an even number of odd numbers in the column of figures added. This is the basis of Mr. MITCHESON's check-figure system, employing 2 as a divisor instead of 13; but if 2 be employed, the check-figure must in every case be either 1 or 0, according to whether the original figure is odd or even, and while this particular test is sometimes useful, it is by no means sufficiently thorough to detect anything like every conceivable form of error. Larger divisors might be employed with, in general, a progressively improved result; for as a greater number of check-figures are called into use, the risk of an error remaining undetected because one amount is inadvertently substituted for another amount having the same check-figure becomes increasingly improbable.

Those of our readers, however, who take the trouble to devote a little time to experimenting, will find that no divisor of less than 13 produces anything approaching a really adequate result; but 13, providing as it does thirteen distinct check-figures, certainly goes a long way towards ensuring against mistakes in Ledger posting or in the additions of books of

first entry. As Mr. E. W. CRAWFORD, A.C.A., pointed out, however, in our issue of the 13th inst., 13 has its limitations. Not only does it fail to detect errors of 13 pence, as, for instance, when 1s. 1d. is inadvertently posted as 2s. 2d., and *vice versa*—a mistake which, perhaps, is hardly likely to occur in practice where ordinary precautions are observed—but it also proves inoperative as a means of detecting such errors of transposition as 2s. 7d. and £2 7s., or 6s. 8d. and £6 8s. In both the first pair of figures the check-figure is 8, and in the second pair 11; and inasmuch as errors of transcription such as these may quite easily occur in practice, the breakdown of the check-figure system to detect them can only be regarded as a somewhat serious defect. It is quite possible that the employment of a larger divisor, such as 17, would remove these particular difficulties, and as a coincidence reveal other weaknesses of an equally fatal description; but it is very doubtful whether the process of dividing by 17, even if only conducted with a view to ascertaining the ultimate remainder, could be performed mentally with sufficient accuracy and speed to render the method practicable. Mental division by 13 could, however, doubtless be readily acquired with only a little practice, and that being so, in spite of the difficulties to which attention has already been drawn, it might be worth while experimenting with check-figures. This seems the more probable, as, if there are only two possible transpositions that the system fails to detect, it should not prove an altogether insuperable difficulty to find where the discrepancy arose if the books failed to balance in spite of the fact that the check-figure test revealed no error.

As it stands, the check-figure system seems of undeniable value up to a point. Even supposing that, with reasonable familiarity with the system, it involved an increase of (say) 50 per cent. in the time occupied in posting up the Ledger, it must be remembered that the time occupied in calling back the postings would be saved, so that the actual amount of time occupied in mere bookkeeping would in all probability not actually be increased at all. Moreover, a system which in the vast majority of cases would at once locate an error in posting on to one page of a book of first entry would undoubtedly save an enormous amount of time, which, under all ordinary circumstances, has to be employed practically every month in detecting errors of balancing that the most improved methods hitherto employed could not locate more accurately than into one of a series of Ledgers. Where any considerable number of Ledger postings are made from a Journal of the old-fashioned type, the advantage of using complementary check-figures to enable errors of posting to the wrong side of the Ledger to be detected is undoubtedly considerable; but the system is capable of being much further extended than our correspondents have hitherto suggested, and applied to the accurate extraction of Ledger balances as well as to Ledger postings.

By introducing a column for check-figures in the Ledger itself, and inserting them there at the same time that they are called back to the bookkeeper in charge of the book of first entry, it is possible to readily check the Ledger balances, as extracted, by seeing that the check-figure columns balance after the check-figure of the balance is inserted upon the shortest side. (In this connection it should be noted

that where complementary check-figures are employed for debit and credit respectively, the total of the debit check-figures should not be equal to, but the complement of, the total of the credit check-figures, assuming that the check-figure of the balance has been duly inserted.) In this way another step has been taken towards guarding against errors which interfere with the accurate balancing of books, and where the outstanding balances are numerous it seems quite likely that the check-figure system as applied to them would be found quite as valuable as when applied to the postings themselves.

Of course, however, it is needless to say that no system of check-figures can take the place of, or take away the necessity for, the frequent balancing of the Ledgers themselves at regular intervals. Even apart from the partial breakdown of the system to which Mr. CRAWFORD has drawn attention, it must not be overlooked that the balancing of Ledgers is necessary not merely to detect inadvertent mistakes, but also deliberate falsification, and that it would be the simplest thing in the world for a bookkeeper to secure the balancing of his check-figures while his Ledgers themselves did not balance, so long as he took the precaution of seeing that the actual difference in his balances was always some multiple of 13. That being so, under no circumstances should the day-to-day agreement of the check-figures be regarded as in itself a complete check upon the accuracy of the Ledger; but, so far as it goes, it would certainly seem to provide a very efficient—albeit not invariable—check against inadvertent errors, which, after a little practice, would involve practically no additional time being devoted to the bookkeeping. While, there-

fore, from an auditor's point of view it seems to us that it cannot be seriously regarded as of value, as a method of internal check it appears to possess undeniable possibilities which so far have been but little exploited. Doubtless, now that attention has been directed to the matter, the ingenuity of some of our readers will enable them to devise improved systems that may even obviate the difficulties to which we have drawn attention. In the meanwhile, however, the system would appear to be sufficiently promising to be worth, at all events, an experimental trial, and if any of our readers are sufficiently impressed with its possibilities to give it that trial, we shall be glad to hear in due course with what measure of success it is attended, and what (if any) latent difficulties are discovered in practice.

Weekly Notes.

The Shoreditch Borough Accounts.

In the course of his audit of the accounts of the Shoreditch Borough Council for the year ended the 31st March 1905 the district auditor states that the long delay in the completion of the audit has arisen almost entirely from the failure to produce necessary vouchers for the payments made by the Council in settlement of contracts. An item of £14,651 5s. has been eventually passed by him upon a sworn declaration of its correctness recently made by the quantity surveyors; but he points out that this item has not been duly vouched, and that in his opinion it is important that evidence should be submitted both to the Council and to the auditor sufficient to show that the terms of the contract have been observed in calculating payments, and that a considerable experience has proved to him that in the settlement of contracts, more than anywhere else, losses will arise if there be neglect of the regular system of supervising and checking the correctness of the charges. It seems to us that, if the item in question has not been duly vouched, the district auditor has in the discharge of his duties no possible course open to him other than that of surcharging the expenditure altogether,

leaving those concerned to appeal against his decision or to apply for a remission of the surcharge, as they think fit. It is surely obvious that the system of tendering for public contracts becomes a hopeless farce if, after the most suitable tender has been solemnly accepted, no precautions are taken to ensure that the amount actually paid under the contract entered into is the amount legally due thereunder. The mere fact that no evidence is obtainable showing how the figure was made up certainly suggests *prima facie* that there was no very effective inquiry into the matter, and while we have always expressed ourselves as being sceptical of the practical utility of the statutory power of surcharge, it seems to us that here is a suitable case for the exercise of that power.

Lectures on Municipal Accountancy.

The city of Manchester Education Committee has inaugurated a series of special lectures and classes for clerks and officials in municipal and public offices which will be held at the Manchester Municipal Evening School of Commerce throughout the session, which commenced on the 1st inst. The Principal of this school is Mr. Alfred Nixon, F.C.A., and the course provided includes lectures on Local Authority Finance, by Mr. W. T. Postlethwaite, LL.B.; on Municipal Law, by Mr. E. C. Burgis, M.A., LL.B., Barrister-at-Law; on Municipal Accounts, by Mr. E. Hartley Turner, A.C.A.; on Local Government, by Mr. F. Brocklehurst, M.A., Barrister-at-Law; and on Arithmetic and Algebra, by Mr. F. Hargreaves, F.S.A.A. The course is organised to prepare candidates for the examinations of the Institute of Municipal Treasurers and Accountants, and is, we believe, the first of its kind undertaken by any technical school in this country. In making this statement, however, it is only right to mention that for some years past the candidates for the examinations of the Municipal Treasurers' Institute who are in the neighbourhood of Birmingham have been in the habit of attending the courses in Accounting and Commercial Law provided by the Birmingham University.

United States Currency.

The New York Chamber of Commerce has made certain suggestions with regard to currency reform in the States. The committee appointed to deal with the matter suggested the establishment of a central bank of issue, with an alternative scheme involving the issue of Government bond secured currency up to 50 per cent. of the bank's capital, but that additional notes up to 35 per cent.

of the bank's capital might be issued subject to a graduated tax; these notes to be unsecured except so far as the assets of the bank would afford security, and the Government to itself guarantee notes out of the special funds to be raised by means of a tax on these note issues. Other suggestions are that the law restricting the retirement of national bank-notes of three million dollars per month be repealed, that future issues of United States bonds be not made available by the issue of national bank-notes, and that all money in the general fund of the Treasury above a reasonable working balance should be deposited in the national banks. The central bank of issue scheme does not appear to have met with very great approval, for a staid American contemporary says that it has long been conceded to be a political impossibility in that country. It is said that the public has always shown, and will continue to show, unwillingness to entrust to a single body of men concentrated powers such as have been suggested.

Municipalities and Banks.

Recent experiences of the Chester Corporation leads the *Municipal Journal* to suggest that local authorities will soon be compelled in self-defence to establish a municipal banking corporation. Our contemporary speaks of a Banking Trust, and a Money Trust, and so on, and we need hardly say that the Industrial Freedom League also figures in its article on the subject. The whole of the difficulty arose out of the fact that one of the councillors suggested that tenders should be invited from the various banks in the city as to the terms on which such banks would be prepared to take the corporation account. At present the account is held by Parr's Bank, and in their letter offering slightly better terms than previously existed they suggest that the commission on the turnover, less the aggregate amount of the transfers, should be 1s. per cent. instead of, as in the past, 1s. 3d. per cent. (this would be equal to about 7d. per cent. on the entire turnover), or that in lieu of commission no interest should be allowed on £2,500 of the total balance at credit of the accounts. The manager of Lloyd's Bank regretted that he was unable to accept the invitation to tender in common with other banks; the directors of the North and South Wales Bank preferred not to tender; and it was not the practice of the National Provincial Bank to offer terms in competition with other banks; the Bank of Liverpool, while grateful for the invitation, felt it could not with due courtesy to

its neighbour compete for the account. On the surface it seems as if local conditions had something to do with the present move, and we cannot say that we share our contemporary's alarm.

The Reissue of Debentures. Bearing in mind the decisions in *In re Tasker & Co.*, it is interesting to note that at a recent meeting of debenture-holders of a well-known company the following resolution was passed:—

"That this meeting of the holders of the Five and a-half per cent. first mortgage debentures of the ——— Company, Lim., hereby resolves that the £56,800 of debentures of the company originally forming part of the issue secured by the trust deed dated ———, which have been purchased and resold by the company, shall, notwithstanding this purchase and resale, rank in all respects equally with the outstanding debentures of that issue, and shall be deemed to be debentures within the meaning of the said trust deed."

It is quite probable that this resolution has been passed by counsel, but it remains to be seen whether it will stand the test of litigation.

Expensive Parliamentary Procedure. Discussing the experiences of the City Council of Hull with regard to their unsuccessful attempt to secure powers to construct a pier and wharf, the *Municipal Journal* has severe remarks to make with regard to the cost of promoting Private Bill legislation. It is said that in the instance quoted the fees paid to special witnesses and counsel were simply enormous, and it is suggested that it ought to be possible to devise a scheme whereby local evidence could be taken on the spot, "thus saving "the ratepayers large sums of money which, even if "their Bill is successful, never yield an adequate "return." We quite agree with our contemporary as to the expensiveness, but it appears to have overlooked the fact that the promotion of Private Bill legislation is quite a national industry.

Owners' Risk. The railway world seems fated to be always in the throes of some problem which upsets its smooth working. Yesterday it was the Labour question, which is, perhaps, still with us to-day. A new problem has arisen, inasmuch as a Bill is to be introduced in the House of Commons, the avowed object of which is to make railways responsible

for loss, injury, or delay where the companies' servants have shown gross neglect. This does not seem to be inequitable, but the railway authorities point out that the companies long ago voluntarily conceded lower rates on the distinct understanding that traders should absolve them from their liability, and from the customer's point of view he obtained better terms, and the company lessened responsibility. The consideration, therefore, was quite satisfactory. If the proposed Bill does succeed it will presumably be followed by an increase in rates, as the previous concession was quite voluntary; then there will be another outcry, and further trouble. Altogether, the modern railway company's lot seems to be like that of the Gilbert and Sullivan policeman.

"Bankers and Borrowers." The current session of the Liverpool and District Bankers' Institute was happily inaugurated last week, when Mr. F. E. Steele, of Parr's Bank, London, delivered a lecture on "Bankers and Borrowers." Mr. Steele dealt at length with the various functions of a bank, specially emphasising its character as a lender and the difficulties surrounding that function. The various kinds of advances, the process of discounting bills of exchange, loans to the Stock Exchange, and advances against documents, deeds, property, and produce were then passed in review. The lecturer rightly pointed out that it was not the business of a bank to provide *fixed* capital for its clients, and his address closed with "a full analysis of the Balance Sheet of a typical lender to a limited liability company." We wonder if we could prevail upon Mr. Steele's generosity to let us see a print of this interesting document?

Municipal Indebtedness. The publication of Part V. of the Local Taxation Returns, giving the accounts of borough councils, excluding London, renders some interesting figures available, although it is true they deal only with the year 1903-4. Receipts, other than from loans, amounted to £13,090,408 in the case of county boroughs, while the figure for non-county boroughs was £2,551,522, the corresponding items of expenditure being £12,702,672 and £2,542,663 respectively. It may be noted that the expenditure (excluding elementary education) increased from £8,414,641 in 1902-3 to £9,490,150 in the year under review. Under the heading of Loans it is shown that the total amount outstanding at the close of the year in respect of loans owing by councils acting as

municipal authorities was £52,068,508, the total loan debt on account of education (including elementary) was £15,193,769. The total outstanding loan debt of the councils acting otherwise than as municipal authorities was £167,840,835, the total of municipal loans outstanding being thus £219,909,343.

The Bank Rate.

The exceptional course adopted by the Directors of the Bank of England last week in raising the Bank rate of discount from 5 per cent. to 6 per cent. on the Friday instead of upon the customary Thursday made it impossible for us to record the fact in our last issue. An increase on the Thursday had not been unlooked for, and was indeed anticipated in certain quarters, but as the 5 per cent. rate was maintained it was naturally assumed that conditions had improved, and the advance made 24 hours afterwards thus came entirely as a surprise. The fact that a 6 per cent. bank rate has only been imposed on four occasions during the last quarter of a century may well be the cause, if one were needed, for considering the present position. That the announcement of the advance came as an unwelcome surprise to the money and stock markets is to put it mildly. At the usual weekly meeting no notification of any change was made, and the suddenness, therefore, with which it was sprung upon the markets added another terror to that which the figure itself conveys. Several conjectures have been made as to the reason for the advance, but very few agree, and it is probable, therefore, that the real facts are not yet known. One authority says that the withdrawals of gold for Egypt are the cause; another suggests that the suggestion that the rise had any connection with these withdrawals is to be laughed at as absurd. As there does not seem to be any real financial crisis hanging over the markets, perhaps there is little real cause for alarm, but it is to be hoped that whatever stringency has caused this step on the part of the Directors of the Bank of England will soon be removed, for the rate is too high to be comfortable. Friday seems to be quite an unlucky day in the City, for forty years ago Friday saw the Overend-Gurney crisis at its height with a 9 per cent. bank rate; in 1873 the same unlucky day brought another advance, and in 1890 the Baring crash was the cause of further trouble in the same direction. The only point on which most critics agree is that, although business men and speculators will feel the pinch of dear money, the time had certainly arrived for decisive action, and it is to be hoped that it will have the desired effect.

The Earmarking of Gold. It is said that the earmarking of gold by the Indian Government was a new departure, which encouraged the Secretary to the United States Treasury to adopt a somewhat similar course during last spring and the present autumn. The Egyptian Government appears now to have adopted a policy of this nature, for it is reported that, owing to the great rise in the price of cotton, Egyptian growers, instead of holding back for better prices, preferred to sell, and as against these sales gold is always taken in exchange, what is termed a "prosperity crisis" arose, which threw great pressure on the banks. The Government, at the urgent request of certain institutions, released gold from a special quarter, on the assurance that a similar amount should be placed under the care of the representatives of the Egyptian Government in London. £500,000 in gold is reported to have been so dealt with, and appeared amongst the exports from the Bank of England to Egypt, although as a matter of fact, the money did not leave London. As the other gold so shipped arrives in Egypt, it is possible that this sum will be returned to the Bank. It is said that the simplicity of working this arrangement may be affected by the fact that other withdrawals may be necessary, in which case the gold would not return to the extent that the operation might suggest; but at the same time the incident is one which shows the valuable assistance which may be granted by this policy.

The Association of Municipal Corporations.

The autumn general meeting of the Association of Municipal Corporations was held at the Whitehall Rooms, Northumberland Avenue, on the 19th inst. In the absence of the President, Sir James Woodhouse, M.P., Mr. J. S. Harmood-Banner, M.P., F.C.A., the Vice-President, occupied the chair.

The Stoppage of a City Bank.

Shortly before noon on Saturday last it was announced that the banking firm of Macfadyen & Co., of Winchester House, Old Broad Street, E.C., were unable to meet their obligations, and at about the same time Mr. P. Macfadyen, the only partner of the firm resident in this country, met his death near the Old Street Station of the City and South London Electric Railway. No statement of the bank's financial position has yet been issued, but it is understood that the liabilities in this country are small, and that the failure is due to losses sustained by the bank's correspondents in Madras.

Judicial Changes. Lord Justice Romer has sent in his resignation after sixteen years' service on the Bench. His Lordship had the reputation of being one of the quickest of Judges, and his decisions have rarely been upset on appeal. It is to be hoped that it will be found possible to still utilise his services in the House of Lords, which is somewhat badly in need of additional members. The vacancy caused by Lord Justice Romer's retirement has been filled by the promotion of Mr. Justice Buckley, who, it will be remembered, was elevated to the judicial Bench in January 1900. The vacant judgeship of the High Court of Justice has been filled by the promotion of Mr. Robert John Parker, who held the post of Junior Equity Counsel to the Treasury, and who thus, in accordance with custom, obtains his preferment without first taking silk. To our readers Mr. Parker will probably be best known as one of the joint authors of the revised Table A, and as the junior counsel for the defendant company in the case of *Newton v. The Birmingham Small Arms Company, Lim.* The elevation to the Bench of a lawyer holding Mr. Parker's views on the subject of Secret Reserves can, we think, hardly fail to prove a matter of considerable practical interest to all concerned.

Penalties under the Companies Acts. At the Guildhall last week Mr. Alderman Howes had before him an adjourned summons against L. Rene & Co., Lim., for committing a breach of the Companies Act by refusing to allow the trustee in bankruptcy of one of the directors of the company to inspect the register of members. At the previous hearing it had been stated that there was no intention of putting difficulties in the way of inspection, but that the register was in the possession of the company's solicitors in connection with a civil action; but at the adjourned hearing it was reported that the company had again refused inspection, and that when eventually the register was produced, a portion of it was tied up with string, and the plaintiff had been threatened with a charge of mutilating the book when he cut the string in order to secure access to certain parts that he wished to see. It is satisfactory to observe that his Worship took the view that this, so far from being a technical breach, was a very serious one, which had not been improved by what had taken place since the adjournment. He accordingly imposed a fine of £2 for each of the five days of default included in the summons, and three guineas costs. The unsatisfactory part

about cases of this description is that the penalties are levied against the company, and thus do not come out of the pockets of those who are responsible for the fault.

Shareholders and their Auditors. The shareholders of Harringtons, Lim. held a somewhat excited general meeting on the 17th inst., and made up for the smallness of their numbers by the determination of their attack upon the management of the company by the existing directors. Apparently their ignorance of company procedure and of all questions of account in no way daunted them, for we find that while they succeeded in carrying an amendment that the directors' report and accounts be not received and adopted, they were so elated at their success in this direction that they forthwith proceeded to re-elect the retiring directors. Having accomplished this remarkable feat, it is perhaps small matter for surprise that they should vent their indignation at the unprofitable nature of their investment upon the retiring auditor by electing another in his place. Why the auditor should be held responsible for the fact that the company is worked at a loss, or for the fact that the directors have submitted accounts disclosing that fact, we are somewhat at a loss to comprehend. The point that interests us more at the moment is the question of professional etiquette involved.

The Profession in Ireland. A case of some interest to our readers came before the Irish Courts a short time since when, according to the *Derry Journal*, Mr. Henry Jenkinson sued Mr. John M'Williams for £5 13s. 6d., work done for the latter by the former as an accountant. An application for adjournment was made on behalf of the defendant, it being alleged that the plaintiff had acted as a solicitor, and was claiming payment for work so performed. It was wished, said the defendant's solicitor, to communicate with the Law Society with a view to seeing what action they would take in the matter. His Honour declined to adjourn the case on that account, but pointed out that the defendant could draw attention to any item of solicitors' work that was included in the account. In the course of the plaintiff's cross-examination it was brought out that although he described himself as a Chartered Accountant in his bill forms he was not at the moment a member of the Institute. His Honour eventually found in the plaintiff's favour for £4 17s. 8d. It would be interesting to know whether the view is generally entertained by the Irish Judges that a person

who is not for the time being a member of a Chartered body is entitled to recover for work done as a Chartered Accountant.

**The
Importance
of Vouchers.**

In an action which came before Judge Emden in the Lambeth County Court last week his Honour ruled that where a defendant was unable to produce receipts for payments alleged to have been made by him there must be judgment for the plaintiff, notwithstanding the fact that the defendant produced endorsed cheques which he claimed to be evidence corroborating his assertion that the debt had already been paid. This ruling is, it seems to us, the more remarkable in that the plaintiff did not produce his books or in any way attempt to refute the argument of the defendant. His Honour held that there would be judgment for the plaintiff, as the defendant could not produce proper receipts. "People who do not insist upon proper receipts," he added, "almost always suffer in the end." It would be interesting to know what his Honour suggests a man should do in cases where the person to whom a cheque has been sent persistently omits to forward any acknowledgment. Most people would be inclined to say that if they were possessed of evidence enabling them to prove payment, it need not necessarily take the form of a receipt signed by the payee.

**The Extension
of L.C.C. Control.**

A correspondent of *The Financial News*, in the course of a long article in a recent issue, foreshadows some unpleasant events should the reported move in the direction of the further equalisation of London rates actually crystallise. The scheme is said to embrace the idea of the London County Council running a kind of municipal parliament and directing the local requirements of an area of something like 700 square miles. Boards of Guardians are to go, the poor law administration, together with the docks, water, electricity traffic, asylums, and police, will all pass under the new administration, we are told. All rates will be levied and raised by the County Council, and it is said that any workman or official of that body will be permitted, after suitable legislation has removed existing hindrances, to vote in any district of the area over which the Council has jurisdiction. It is not well, perhaps, to be too alarmist until the event has really happened, but it certainly does not need much common sense to see that such a system would lend itself admirably to abuse, and would assuredly end in a whirlpool of political jobbery and corruption.

**American Bankers
and Financial
Trust Companies.**

The programme of the trust companies' section of the American Bankers' Association, which held its annual conference recently at St. Louis, is by no means devoid of interest, as the following summary will show:

- (1) Should trust companies do a guarantee or surety business?
- (2) Methods of securing business.
- (3) Advantages of frequent examinations and public reports.
- (4) Safeguards against irregularities.
- (5) How to maintain the interest of the directors.
- (6) The cash reserve.
- (7) The banking department of trust companies; its scope and limitations.

**Tramway
Accounts and
Street
Improvements.**

A matter brought up by Captain Swinton at a meeting of the London County Council on the 16th inst. raises a question of very considerable importance in connection with the accounts of the Tramways Department, but in spite of that, or perhaps for the very reason that it was a question of accounts, it was practically ignored by the Council. Capt. Swinton's point was that it had always been assumed by the public, and by most members of the Council, that one-third of the cost of street widenings for tramway purposes was borne by the Tramways Account, one-third by the local authority, and one-third by the county fund; yet although £4,044,848 had been spent in order that tramways might be cut through London, only £377,260 was charged to the Tramways Account. The significance of these figures, of course, lies in the circumstance that the Tramways Accounts are only debited with interest and Sinking Fund instalments in respect of those loans which are allocated as tramway capital expenditure. In common with Capt. Swinton, we had certainly been under the impression that there was a general rule as to the division of expenditure on improvements into thirds—a method of apportionment which, while obviously rough and ready, would at least have the merit of enabling people to know where they are. If, however, something less than one-tenth is to be debited to tramways, it is clear that this rule, if it ever existed, has been departed from, and that the apportionment has been based upon something else—presumably on what are thought to be the merits of each separate case. If that be so, it would certainly have been interesting to hear the arguments in favour of the apportionment actually adopted. Quite conceivably

they might prove unanswerable, but *prima facie* the matter is one for inquiry, and that the inquiry should be shelved creates an unpleasant impression.

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinion expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Termination of Articles and Service with Incorporated Accountants prior to Final Examination.

(To the Editor of The Accountant.)

SIR,—I should esteem it a personal favour if you or any of your subscribers would be so kind as to give me the benefit of your or their advice.

My articles have recently expired, and I am now contemplating seeking fresh experience.

I have a post offered me by a firm of Incorporated Accountants. What I desire to know is: Will the fact of me being with a firm of Incorporated Accountants be detrimental to my prospects of satisfying the Examination Committee when I sit for my Final Examination of the Institute? My student friends answer in the affirmative. I should like to know what is the opinion of the older members of the profession.

Yours truly,

LOOK BEFORE YOU LEAP.

[We should say "NO"; but if our correspondent wishes to make quite sure, let him put his question to the Secretary of the Institute.—ED. ACCT.]

Company Law in Arizona.

(To the Editor of The Accountant.)

SIR,—With reference to your correspondent's inquiry in to-day's *Accountant* as to the above, having for some years been Chief Accountant to the Arizona Copper Company, Lim., in Arizona, I may be able to give him the information he desires.

Arizona is one of the territories of the United States, and not in South America as stated. Each State or Territory makes its own internal laws, subject to the general Constitutional laws of the United States, and so whenever a company is incorporated it becomes necessary to state the law under which it is incorporated, as in this case—"Arizona." Each company when being incorporated has to draw up its "Articles of Incorporation," corresponding to the memorandum of association of companies in this country, and these articles have to be published several times in local papers. In addition, the company is regulated by its own bye-laws, but the Articles of Incorporation would reveal to your correspondent the extent of his liability in the event of a winding-up; generally speaking, there is no liability after the shares are paid up.

Your correspondent does not state whether the mining company in which he is interested is purely an Arizona one, or whether it is being fostered by any English company; when the latter is the case the principle adopted is to incorporate a local company with its local board of directors, &c., and then to mortgage its interests to the British company. An alien company cannot locate claims, and so such locating must be done by representatives of the local company.

One of the points to which your correspondent should direct his attention is whether the property held by the proposed company consists of patented claims or unpatented ones. If the latter, he must bear in mind that they only belong to the company so long as it expends the sum of one hundred dollars per year on each claim, so that if for any reason the company gets into difficulties and is unable to carry on this work it will lose its mining claims; when five hundred dollars have been expended per claim and certain work done patents can be applied for, and thereafter the ownership becomes absolute.

Arizona is extremely rich in minerals, and some splendid companies are established there, such as the Arizona Copper Company, Lim., whose ordinary shares sell on the market at the present time at fifteen times their par value; there is also the United Verde Mine, an extremely rich property, owned practically by the much-heard-of Senator Clark, of Montana; the Copper Queen Company, of Bisbee, and others, but there are a lot of wild-cat schemes also floated from time to time, as is inevitable where there have been great genuine successes. Your correspondent will be very well advised if he refrains from putting money into a new

venture without a very careful scrutiny of the prospectus, and of the names of those interested in the flotation.

Promoters of doubtful schemes are very fond of laying stress on the fact that the property held adjoins that of some well-known company, but too much faith must not be given because of that; a large company generally has prospectors out, and may have considered that very property not worth locating, and so passed it over. If your correspondent thinks I can be of any service to him and will write to me at Taunton I shall be happy to assist him.

Yours faithfully,

ALBERT C. MOLE, F.S.A.A., F.C.I.S.

Taunton, October 20th 1906.

Income Tax Surveyors and Balance Sheets.

(To the Editor of The Accountant.)

SIR,—You informed your readers last week that Surveyors of Taxes asked for production of Balance Sheets because it is found that income-tax deducted from debenture interest is by no means always duly accounted for.

Another reason, as given to me in a private trader's case, was that it is now necessary to verify the amount of capital value upon which depreciation of machinery has been calculated.

Yours truly,

SEASIDE.

(To the Editor of The Accountant.)

SIR,—With reference to the letter of your correspondent "Income Tax" and your Weekly Note on above subject, the practice of demanding Balance Sheets appears to be extending, as I have recently been asked by a Surveyor of Taxes to supply a copy of the Balance Sheet of a private firm, on whose behalf I had submitted a Trading Account in support of an appeal.

On my objecting that I was not authorised to disclose more about their affairs than the accounts provided for in the Income Tax Acts, and asking him to quote the section on which he relied to support his demand, he replied that "The Commissioners are entitled under "Section 120 of the Act of 1842 to require such "particulars as they shall demand," and the same day served a requisition on my clients in the terms of Enclosure "A." Whilst the particular balances asked for are information which should be supplied (and have,

indeed, in this case already been furnished last year for the two earlier dates), the demand for Balance Sheets showing the position of a private firm is one which should, I think, be resisted as opening the door to grave abuses.

Although this is the first occasion, in the course of nearly thirty years' experience, that I have heard of such a demand, the Surveyor in question appears to be accustomed to obtain Balance Sheets, as he writes:—"It is not at all unusual to submit a Balance "Sheet—indeed, the majority of accountants practising "in this district (and elsewhere, in my experience) do "not consider accounts complete unless a Balance "Sheet accompanies the Profit and Loss Account."

Yours faithfully,

O. P.

October 23rd 1906.

[ENCLOSURE "A."]

INCOME TAX.

No. 79.

Precept of the Commissioners requiring Schedule of Particulars.

To Messrs. A ——— & B ———
Of C ——— Street, D ———

We, the undersigned, being two of the Commissioners for the General Purposes of the several Acts of Parliament relating to the Duties on Profits arising from Property, Professions, Trades, and Offices, and acting within the Division of D ——— in the County of E ———, do hereby require you to return or cause to be returned, at our Office, situate at No. — F ——— Street, G ———, within the space of ten days after the date of this Precept a Schedule containing the following Particulars, viz. :—

Certified copies of the Balance Sheets, as usually prepared, showing the position of the firm at the 30th June 1903, 30th June 1904, and 30th June 1905, and in particular the balances at those dates of the Machinery and Plant Account and Doubtful Debt Reserve Account.

————— thereof fail not.

Given under our hands this day of 1906.

H ——— J ———
K ——— L ——— } Commissioners.

Company Accounts.

(To the Editor of The Accountant.)

SIR,—I am interested in a company, the accounts of which bear the certificate "That the Balance Sheet is "properly drawn up, so as to exhibit a true and correct "view of the company's affairs, as shown by the books "of the company," but I think the way in which the figures are set out is of considerable interest to the profession, and I trust you will be able to insert this letter in your next issue, as I am desirous of ascertaining the views of members of the Institute.

The company has a capital of ordinary shares, preference shares, and debentures, and a portion of the latter are paid off each year; the amount paid off during the year ended 31st July 1905 was £8,440, which has been debited to revenue in an amount of £11,578 under the heading of "Interest, Sinking Fund, and repayment of Debentures."

Apparently the repayment of debentures has been dealt with similarly in previous years, and at 31st July 1905 the debentures had been reduced from £120,000 (the original issue) to £39,560, consequently revenue has been debited with the debentures paid off amounting to £80,440.

The company has made profits, but not sufficient to meet the whole amount of £80,440, and at the above date there was a balance to debit of revenue of £31,402, appearing on the credit side of the Balance Sheet, whilst on the other side there is an item set out as "Debenture Sinking Fund" £80,878, the difference between this figure and the amount of the debentures actually paid off representing apparently cash in hand.

I think this method of treating these transactions is open to criticism, inasmuch as the accounts show that:—

- (1) Liabilities have been paid out of profits.
- (2) A liability is set out on the Balance Sheet which does not exist.
- (3) There is no Debenture Sinking Fund in existence, as the debentures have actually been paid off.
- (4) Instead of there being a debit revenue balance of £31,402, there should actually be a balance of £49,476 to the credit of revenue.

And should these objections be admitted, the Balance Sheet cannot be said to exhibit a true and correct view of the company's affairs.

There may have been reasons for setting out the figures as they appear in the accounts, but I do not think it can be contended for one moment that the position is clearly shown on the face of the accounts, a condensed summary of which is annexed.

Yours faithfully,
INVESTOR.

23rd October 1906.

REVENUE ACCOUNT for the Year to 31st July 1906.

To General Charges ..	£ 1,333	By Revenue for the Year ..	£ 13,317
Interest, Sinking Fund, and Repayment of Debentures ..	11,578		
Balance carried to Balance Sheet ..	406		
	<u>£13,317</u>		<u>£13,317</u>

BALANCE SHEET, 31st July 1906.

Share Capital	£ 240,000	Purchase Account	£ 260,000
Debenture Capital—		Advances	100,000
6% Debentures £120,000		Cash	4,593
Deduct Bonds paid off ..	80,440	Revenue Account—	
	39,560	Balance from last Account ..	£31,808
Debenture Sinking Fund ..	80,878	Less Profit for the year to 31 July 1906 ..	406
Creditors	35,467		<u>31,402</u>
	<u>£395,905</u>		<u>£395,905</u>

Meetings for the ensuing Week.

Monday—INSTITUTE OF CHARTERED ACCOUNTANTS.—Investigation Committee, at 3 p.m.

Wednesday—LONDON CHARTERED ACCOUNTANT STUDENTS SOCIETY.—Joint Debate with Bristol Chartered Accountants Students' Society—subject, "Income-tax"—at the Hall of the Institute, Moorgate Place, E.C.; 6 p.m.

SHEFFIELD CHARTERED ACCOUNTANTS STUDENTS' SOCIETY.—Prize essay will be read by Mr. Stewart Green on "The Difference in Constitution and Relative Advantages of Private Firms and Limited Companies, and the Matters of Account involved by a Conversion," at the Library, Hoole's Chambers, Bank Street; 6.45 p.m.

Bankruptcy Act, 1883.

Report by the Board of Trade laid before both Houses of Parliament under Section 131 of the Bankruptcy Act, 1883.
(Concluded from page 484).

Employment of Solicitors by Official Receivers.

Six hundred and forty-four applications by Official Receivers for authority to employ solicitors were sanctioned by the Department during the year, the total estimated cost of the proceedings for which they were employed being £8,066. Compared with the corresponding particulars for 1904 these figures show a decrease of 16 applications, and of £396 in amount of costs. These employments relate chiefly to litigation or other proceedings beyond the scope of the Official Receiver's personal functions, and the costs represent the maximum amount sanctioned by the Department (apart from any adverse costs where proceedings are unsuccessful). But this maximum is never actually expended. In some cases the mere threat of proceedings is sufficient, in others compromises are effected, and in others the costs are obtained from the persons against whom proceedings are taken. The total law costs charged to estates by Official Receivers in the 4,011 cases closed

during 1905 in respect of proceedings taken by them after the Receiving Order were only £4,776, or an average of £1 4s. per case.

Prosecutions.

In addition to the prosecutions under the Bankruptcy and Debtors Acts, particulars of which are given in Table IX. and in the Notes thereon, 10 bankrupts were prosecuted by the Director of Public Prosecutions for offences reported by the Official Receivers following on their investigation of the bankrupts' conduct and affairs. Among this number were two cases in which solicitors had misappropriated large sums of money belonging to trust estates and clients. In one case a conviction was obtained, and in the other the bankrupt pleaded guilty, a sentence of five years' penal servitude being passed upon each bankrupt.

In two cases the bankrupts were Chartered Accountants, who had misappropriated moneys received by them as trustees under deeds of arrangement and arrangements with creditors without deeds. In each case the bankrupt pleaded guilty, and they were sentenced to nine months' and four months' imprisonment respectively.

Two other cases were prosecutions of stock and share brokers for misappropriation of clients' moneys, convictions being followed in one case by a sentence of twelve months' imprisonment with hard labour, and in the other by six weeks' imprisonment.

An accountant who had misappropriated moneys, of which he was trustee under a will, pleaded guilty, and was awarded nine months' hard labour. A house and estate agent and collector of accounts who had misappropriated rents and debts collected and moneys received by him as trustee under a deed of arrangement, upon conviction was sentenced to four months' imprisonment with hard labour. An accountant, debt collector, and money-lender, convicted of forgery of promissory notes, was sentenced to eighteen months' imprisonment with hard labour.

The last case to be noticed was that of a shipowner, who was charged with misappropriation of moneys belonging to steamship companies of which he was managing director. He was taken seriously ill during the course of the trial and died before its completion.

One feature in connection with this case appears to call for comment—viz., the practice of obtaining advances from mariners desirous of obtaining employment as masters of ships. This practice seems to be a common one. The sum advanced, amounting sometimes to £500 or £1,000, is supposed to be for the purchase of shares in the company, and it is generally arranged that in the event of the master leaving the service of the company he is to receive from the managing owner the par value of his

shares. This sum is usually obtained by requiring the outgoing master's successor to provide such amount as is necessary to pay for the shares. The practice would no doubt be defended on the ground that it gives the master an interest in the company whose ship he commands, and is a security for his honesty and good conduct, but it opens the door to fraud upon the master, who may, in his desire to obtain employment, be induced to place his savings in an unsound investment. In this bankruptcy, for instance, thirteen persons were scheduled as creditors for moneys so advanced, the aggregate amount of their claims being £11,650. Of this sum the bankrupt appears to have received £6,450, and the balance to have been paid over to one or other of the shipping companies of which he was director. There is apparently little doubt that the unfortunate master mariners will lose nearly all the money which they had to provide as a condition of their employment. These moneys represent in some cases the whole of their savings, and in others loans which they have obtained from friends for the purpose of the so-called investment.

Administration Orders under Section 122 of the Bankruptcy Act, 1883.

The following table has been compiled from the Returns from County Courts in England and Wales:—

PARTICULARS OF APPLICATIONS FOR ADMINISTRATION ORDERS for the 20 years 1884-1903 and for the year 1904.

	Number of Applications	Number of Requests dismissed	Approximate Number of Orders made	Number of Creditors	Total Amount of Debts
1884 to 1903	79,191	11,689	67,240	824,252	£ 2,152,607
Year 1904	6,953	748	6,099	69,869	160,651
Total for 21 years..	86,144	12,437	73,339	894,121	2,313,258
Average per year for 21 years	4,102	592	3,492	42,577	110,155

It appears from the above figures that nearly 11 per cent. of the applications for administration orders in 1904 were dismissed. In 3,125 cases, or 51 per cent. of the cases in which orders were made, the debts were ordered to be paid in full, while in the remaining cases compositions, ranging from 3d. in the pound upwards, were ordered to be paid. The lowest monthly instalment ordered to be paid was 1s.

The total amount paid into Court from 1884 to 1904 (both inclusive) was £637,873, while the amount paid to creditors

during the same period may be estimated at about £382,000.

To enforce unsatisfied orders 226,382 judgment summonses have been issued since 1883, and 102,591 orders of commitment have been made, but only 249 executions and 3,981 committals to prison resulted from these proceedings.

Departmental Committee.

Most of the subjects of reference to the Committee appointed by the President of the Board of Trade have been discussed in previous Reports, and it would be out of place to deal with any of them in the present Report while the Committee is sitting.

NOTES ON TABLES OF STATISTICS.

In accordance with the practice hitherto followed, I beg to submit the following explanatory notes upon the various tables relating to bankruptcy and deeds of arrangement attached to this Report:—

Bankruptcy Statistics. (Annex No. II.)

Table I.—The number of bankruptcy notices issued was 105 less than the number issued in 1904, and 15 per cent. of these notices formed the act of bankruptcy on which petitions resulting in receiving orders were founded, as compared with 13.4 per cent. in 1904. Of the creditors' petitions filed, 47 per cent. were dismissed or withdrawn, as compared with 45 per cent. in the preceding year.

Table II.—The number of receiving orders in 1905 exceeded the number in 1904 by 224, the increase in the High Court being 85 and in the County Courts 139. The increase in the number of orders made respectively on debtors' and creditors' petitions was 5 per cent. in each case. Twenty-six orders for administration of deceased debtors' estates were made during the year, a decrease of six on the number made in 1904.

Table III.—The principal acts of bankruptcy—viz., bankruptcy notice, assignment for benefit of creditors, notice of suspension, and absconding—form respectively 58.8, 15.8, 12.1, and 8.8 per cent. of the total number of acts of bankruptcy, as compared with 57.1, 16.3, 12.3, and 8.5 per cent. for 1904.

Table IV.—The total liabilities under receiving orders and administration orders (Section 125) were estimated at £5,915,867, or £1,045,969 less than in 1904. The average per case was £1,242, as compared with £1,531 in the previous year. The estimated assets also show a decrease (viz., £459,967), with an average of £492, as compared with £617 in 1904.

The percentage of estimated assets to estimated liabilities was 39.6 per cent., as compared with 40.3 per cent. in 1904.

Table V.—Of the 38 compositions included in the table, 14 with liabilities estimated at £20,631 and assets £3,012, were approved under Section 23 of the Act of 1883—that is, after adjudication had been made. The rates of these compositions were as follows—viz., nine at 7s. 6d., four at 10s., and one at 12s.

In addition to the compositions included in the table, 12 compositions were approved during the year under Section 23 in cases in which receiving orders were made prior to 1905. The rates of these compositions were as follows—viz., five at 7s. 6d. and under 10s., five at 10s. and under 15s., one at 15s. and under 20s., and one at 20s.

No composition of less than 7s. 6d. in the £ was approved.

Table VI.—The number of creditors who proved before the first meeting and the number of creditors for amounts under £10 were respectively 27 per cent. and 59 per cent. of the total number of creditors, as compared with 26 per cent. and 56 per cent. in the preceding year. The amount of proofs admitted for voting purposes and the amount represented at first meetings formed 41 per cent. and 32 per cent., respectively, of the total estimated liabilities, as compared with 45 per cent. and 35 per cent. in 1904.

Table VII.—As in 1904, adjudications and administration orders (Section 125) form over 99 per cent., and compositions and schemes less than 1 per cent., of the total number of cases. The proportion of cases in which orders for summary administration were made was 85.01 per cent., as compared with 83.02 per cent. in 1904, and was higher than in any previous year. In 148 summary cases non-official trustees were appointed; while, on the other hand the Official Receiver remained trustee in 104 non-summary cases.

Table VIII.—The number of applications for discharge dealt with during the year was 800, being an increase of 75 compared with the number in 1904.

The number of cases in which discharge was suspended for two years or more forms 97 per cent. of the total number of suspensions, as compared with 95.3 per cent. in 1904.

The following table furnishes some information in regard to the conduct and affairs of bankrupts as reported by Official Receivers on applications for discharge. Thirteen cases dealt with under the Bankruptcy Act, 1883, and included in Table VIII., Annex No. II., are not embodied in the results given below, as such applications are treated on a different basis to applications under the Bankruptcy Act, 1890, and the facts relating to conduct differ in the two Acts. Nineteen cases under the Act of 1890, in which the applications were adjourned generally, are also omitted.

FACTS reported against BANKRUPTS by OFFICIAL RECEIVERS under Section 8 (3) of the Bankruptcy Act, 1890, in 768 cases in which applications for discharge were dealt with in 1905.

Section 8, subsection 3	Facts reported	Number of Cases in which the foregoing facts were reported and were not disproved
(a)	That the bankrupt's assets are not of a value equal to 10s. in the pound on the amount of the unsecured liabilities (excluding cases in which the deficiency was not due to circumstances for which the bankrupt could be held justly responsible)	696
(b)	That the bankrupt has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his bankruptcy	479
(c)	That the bankrupt has continued to trade after knowing himself to be insolvent	364
(d)	That the bankrupt has contracted any debt provable in the bankruptcy without having at the time of contracting it any reasonable or probable ground of expectation of being able to pay it	201
(e)	That the bankrupt has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities	72
(f)	That the bankrupt has brought on or contributed to his bankruptcy by rash and hazardous speculations, or by unjustifiable extravagance in living, or by gambling, or by culpable neglect of his business affairs	155
(g)	That the bankrupt has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any action properly brought against him	9
(h)	That the bankrupt has within three months preceding the date of the receiving order incurred unjustifiable expense by bringing a frivolous or vexatious action	1
(i)	That the bankrupt has within three months preceding the date of the receiving order, when unable to pay his debts as they became due, given an undue preference to any of his creditors	56
(j)	That the bankrupt has within three months preceding the date of the receiving order incurred liabilities with a view of making his assets equal to 10s. in the pound on the amount of his unsecured liabilities	—
(k)	That the bankrupt has on any previous occasion been adjudged bankrupt, or made a composition or arrangement with his creditors	92
(l)	That the bankrupt has been guilty of any fraud or fraudulent breach of trust	8

Table IX.—Sixty-three prosecutions under Section 166 of the Bankruptcy Act, 1883, were ordered during the year, being an increase of five on the number ordered in the preceding year. Of 41 cases finally dealt with, one resulted in discharge by the magistrates, 32 in convictions,

and eight in acquittals. The offences charged against bankrupts whose conviction was obtained are indicated in the following table, several offences being, as a rule, charged in each case:—

NATURE OF OFFENCES charged against BANKRUPTS who were convicted on Trial in 1905.

Section of Act	Nature of Offence	Number of Cases in which Offence charged
Bankruptcy Act, 1883, sec. 31	Undischarged bankrupt obtaining credit to extent of £20	13
Debtors Act, 1869, sec. 11, sub.-sec. 1	Not making full discovery of property	10
" " " 2	Not delivering up all property	11
" " " 3	Not delivering up all books, documents, &c.	1
" " " 4	Concealing property to value of £10 or any debt	10
" " " 5	Fraudulent removal of property to value of £10	6
" " " 6	Omission in statement of affairs	5
" " " 9	Mutilation or falsification of accounts	1
" " " 10	False entry in books or accounts	1
" " " 12	Putting forward fictitious losses or expenses	2
" " " 13	Obtaining property on credit by false representations	2
" " " 15	Pledging property not paid for	2
" " " 12	Absconding with property to the amount of £20	3
" " " 13, sub.-sec. 1	Obtaining credit under false pretences	1
" " " 2	Fraudulent transfer of or charge on property	3
" " " 3	Fraudulent concealment or removal of property	1

Table X.—The proportions of the amount of solicitors' bills, and of the total amount of all the other bills, struck off on taxation, in cases under the Bankruptcy Acts of 1883 and 1890, were 13 per cent. and 5 per cent. respectively as compared with 13 per cent. and 4 per cent. in 1904.

Table XI.—The number of appeals presented during the year to the Court of Appeal was 27, as compared with 32

in 1904; while the number presented to the Divisional Court was 37, as against 33 in 1904. In 32 per cent. of the appeals disposed of or settled in the Court of Appeal and in 28 per cent. in the Divisional Court, the judgments of the Court below were reversed, as compared with 24 per cent. and 35 per cent. respectively in 1904.

Table XII.—The total number of estates finally wound up by the Official Receivers during the year was 4,011,

being an increase of 489, as compared with the number wound up in 1904. In 448 cases, or 11.2 per cent. of the total number wound up, no assets were realised, 35.5 per cent. realised under £25, and 16.9 per cent. between £25 and £50.

The assets realised over £300 in 149 cases, or 3.7 per cent. of the total number wound up, a decrease of .1 per cent., as compared with the same class for 1904.

The average realisation was the same as in 1904—viz., £77 per case—and the total amount realised was 29 per cent. of the gross assets as estimated by the debtors in their statement of affairs, as compared with 33 per cent. in the preceding year.

The percentage of total costs to gross assets realised was 35.47, or .16 per cent. more than in 1904.

Table XIII.—The number of estates finally wound up by non-official trustees during the year was 799, showing a decrease of 326 as compared with the number wound up in 1904. The number of estates shown as wound up during 1904 was, however, exceptionally large, owing to the new method of compiling the table referred to in last year's report. In 37 cases, or 4.6 per cent. of the total number wound up, no assets were realised, while 10.4 per cent. realised under £50.

The average amount realised per case was £813, as compared with £1,103 in 1904, and the total amount realised was 42 per cent. of the gross assets, as estimated by the debtors in their statements of affairs, as compared with 39 per cent. in the preceding year.

The percentage of total costs to gross assets realised was 29.13, or 2.85 per cent. more than in 1904.

The following table shows at a glance the comparative cost of winding-up estates in different classes by Official Receivers and non-official trustees under the Bankruptcy Acts and by trustees under deeds of arrangement:—

COMPARATIVE STATEMENT of percentages of costs in estates (classified according to value) wound up during the year 1905 by Official Receivers and Non-official Trustees under the Bankruptcy Act and by Trustees under Deeds of Arrangement.

Where Assets realised	Percentage of Costs to Gross Assets		
	Bankruptcy Act, 1883		Registered Deeds of Arrangement
	Official Receivers	Non-official Trustees	
Under £50	79'44	127'97	62'85
£50 and under £100 ..	41'73	86'53	43'56
£100 " £150 ..	35'01	64'86	35'50
£150 " £200 ..	28'82	57'80	33'13
£200 " £250 ..	24'92	47'63	29'90
£250 " £300 ..	22'48	48'14	28'14
£300 " £350 ..	24'17	46'04	27'65
£350 " £400 ..	23'26	41'36	24'40
£400 " £500 ..	21'41	39'68	23'83
£500 " £600 ..	20'82	37'87	22'71
£600 " £700 ..	20'34	34'50	21'56
£700 " £800 ..	27'09	34'32	24'81
£800 " £900 ..	17'56	31'52	22'73
£900 " £1,000 ..	23'79	30'76	20'09
£1,000 " £1,200 ..	15'54	27'64	19'18
£1,200 " £1,500 ..	14'70	31'06	18'81
£1,500 " £2,000 ..	15'62	23'68	18'70
£2,000 " £3,000 ..	17'01	22'19	16'31

Table XIV.—Cases wound up by Official Receivers without dividend show a slight increase, i.e., .66 per cent. compared with the figures for 1904, there being an increase in this class of .20 per cent. in the County Courts and a decrease of .66 per cent. in the High Court, while there is an increase of 1.17 per cent. in cases wound up with similar results by non-official trustees.

Table XV.—The complete administration of 83.94 per cent. of the estates wound up by Official Receivers in 1905 occupied one year or less, while the administration of 13.69 per cent. occupied between one and two years, only 2.37 per cent. taking more than two years to wind up. The similar figures in cases administered by non-official trustees were 40.68 per cent. one year and under, 34.79 per cent. between one and two years, and 24.53 per cent. over two years.

Deeds of Arrangement Statistics. (Annex No. IV.)

Table I.—The number of deeds of arrangement registered in 1905, after deducting 243 or 5.9 per cent. rendered void by subsequent bankruptcy proceedings, was 3,839, a decrease of 246 or 6 per cent. as compared with the preceding year, but considerably above the average number of deeds of arrangement registered annually during the past ten years, viz., 3,427.

The proportion of deeds of assignment to the total number of deeds registered was 87.16 per cent. in 1905, which is a larger proportion than that shown in any previous year, whilst composition deeds have decreased considerably, the proportion being 11.75 per cent. in 1905, as compared with 22.44 per cent. in 1891, since which year there has been a gradual diminution in the proportion of composition deeds to the total number of deeds registered. Absolute assignments and inspectorship deeds fell from .46 per cent. and 1.30 per cent. respectively in 1904 to .15 per cent. and .94 per cent. respectively in 1905.

Table II.—The estimated liabilities under deeds were much less in the year 1905 than in the preceding year, the amounts being £3,758,603 in 1905 and £5,124,521 in 1904, and there was a corresponding decrease in the estimated assets, the amounts being £2,046,955 in 1905 and £2,966,743 in 1904. The magnitude of the cases has also greatly diminished as compared with the year 1904, the average estimated liabilities and assets being £979 and £533 respectively in 1905, and £1,254 and £726 respectively in 1904. The proportion of the estimated assets to the estimated liabilities was 54 per cent. in 1905, as compared with 57 per cent. in each of the two preceding years.

Table III.—Of the 451 composition deeds registered, 138, or 30.5 per cent., provided for less than 7s. 6d. in the £, about the same proportion as in 1904. Twenty shillings in the £ was proposed to be paid in 81 cases, as compared with 86 in 1904.

Table IV.—The number of deeds of assignment in which the final accounts were transmitted to the department during the year 1905 was 3,068, as compared with 2,710 during the preceding year. The gross amount realised (after deducting trading payments and payments to secured creditors) as shown by this table was £1,252,943, representing an average of £408 per case, whilst in 1904 the gross amount realised was £1,197,624, representing an average of £441 per case. The assets realised 68.1 per cent. of their value as estimated by the debtors, as compared with 69.7 per cent. in 1904. The costs of administration, viz., 20.71 per cent. of the gross assets realised, were slightly higher than in 1904, when the percentage was 20.45.

Table V.—Of the 3,068 deeds of assignment in which final accounts were rendered during 1905, 2,016, or 65.71 per cent., were wound up within a year of the execution of the deed, which represents a considerable improvement as compared with the year 1904, when the proportion was 57.2 per cent. only. The proportion of cases which occupied between one and two years shows a decrease, viz., 23.08 per cent. in 1905, as compared with 28.97 per cent. in 1904. The number of cases that took over five years to wind up was 90, as compared with 83 in 1904, but the proportion of these cases to the total number wound up was about the same in both years, viz., approximately 3 per cent.

Death of Mr. Edwin Hough.

I cannot conclude this report without referring with deep regret to the death last April of Mr. Edwin Hough, my predecessor in the office of Inspector-General.

His great experience in the general administration of the Bankruptcy Acts since 1884, and the unstinted application of great abilities to the service of this Department, had won for him the utmost respect.

I have the honour to be,

Sir,

Your obedient Servant,

WILLIAM EVANS,

Inspector-General in Bankruptcy.

Board of Trade,

Bankruptcy Department,

28th September 1906.

The Taking of Oaths.

THE question of taking the oath in our Courts, whether civil or criminal, in a cleaner and better manner, from the sanitary point of view, than by kissing the book has recently been brought prominently forward, and it may be of public advantage to consider the matter in its practical as well as its legal aspect.

The Oaths Act, 1888, "An Act to amend the law as to Oaths," enacts, in the first part, that any person objecting

to be sworn on the ground that he has no religious belief, or that the taking of an oath is contrary to his religious belief, shall be permitted to take a solemn affirmation in lieu of an oath, and provides a form of affirmation for use verbally or in writing.

In the next place, by Section 5, it enacts that, "If any person to whom an oath is administered desires to swear with uplifted hand, in the form and manner in which an oath is usually administered in Scotland, he shall be permitted to do so, and the oath shall be administered to him in such form and manner without further question."

The marginal note to this section is "Swearing with uplifted hand," and it may be taken that the particular Scotch form and manner which it was intended to adapt to the English Courts is the uplifted hand.

The framers of the Act, in the exercise of a very wise discretion, do not set out any special form of oath, as is done in the case of an affirmation in the first part of the Act, nor does the Act limit the oath to any particular form of words used in Scotland.

The validity of an oath depends upon the form used, in any particular instance, being binding on the conscience of the person taking the oath. By the Oaths Act, 1838 (1 & 2 Vict. c. 105) every person is bound by the oath administered to him in such form and with such ceremonies as he shall declare to be binding; and it has been held that the fact that a person takes an oath in any particular form is an admission by him that he assents to the form used, and regards it as binding on his conscience: (*Sells v. Hoare*, 7 Moore, 36; 3 B. & B. 232).

The gist of all oaths is the assent of the person sworn to the form and manner of oath administered to him, whether such assent is signified by kissing the book, or by uplifted hand, or breaking a saucer in Chinese fashion, or by any other means. So, in the case quoted, where a man, afterwards found to be a Jew, had been sworn on the New Testament, it was held that he had assented to the form of oath administered, that the oath was binding on him, and that he was subject to the penalties of perjury if he swore falsely.

There has been an impression that the words "in the form and manner" usual in Scotland mean the exact form and manner there used, and that it is essential that the oath should be administered in that form; that is to say, by the Judge or presiding officer himself, standing, using the precise words usual in Scotland, to be repeated word for word by the witness himself.

The ultimate test of the validity of any particular form of oath is, of course, the view which the learned Judges would take on a "case reserved" for their opinion on a conviction for perjury. One can hardly conceive it possible that the Judges would quash a conviction for

perjury on the ground that any particular set of words had been varied, or that the presiding officer, whether Judge or recorder, magistrate or coroner, was sitting and not standing at the time the oath was administered, or that the oath was administered by the associate or clerk, or usher (if done in the presence and under the authority of the presiding officer), or that the words of the oath were not repeated by the witness, so long as it could be shown that the witness had clearly indicated his assent to the form and manner in which the oath was administered to him.

In the Metropolitan Courts, where forty or fifty witnesses may be sworn in a single day on the same Testament (which may have been in use for months), it is not practicable for the magistrate to administer the oath in each case personally; but, during the eighteen years the Act has been in force, the right of witnesses to be sworn with uplifted hand has been exercised in many cases, both in those Courts and at the quarter sessions, and before the Judges at the Central Criminal Court, the oath being administered by the usual officer of the Court, in a form varying only slightly from that generally in use, and it has been found that, with due care, the utmost solemnity of the oath may be as fully maintained in one manner as the other.

It should be noted that, where a witness shows a desire to be sworn with uplifted hand, it is compulsory upon the Court to administer the oath in that form without question, and the right of witnesses to be sworn in this manner cannot be too widely made known.

(*The Law Times.*)

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, Oct. 19th, was 145, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 81; Deeds of Arrangement registered, 64. The respective numbers in the corresponding week of last year were: Bankruptcies, 98; Deeds of Arrangement, 95—total, 193; being a decrease of 48. The total number of commercial failures recorded during the 42 weeks of the present year is 6,719; the total number recorded in the corresponding 42 weeks of last year was 7,202, showing a decrease of 483.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, Oct. 19th, was 168. The number in the corresponding week of last year was 169, showing a decrease of 1. The total number filed during the 42 weeks of the present year is

6,152; the total number filed in the corresponding 42 weeks of last year was 6,748, showing a decrease of 596.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, Oct. 19th, amounted to £1,696,482, by way of addition to £1,475,359, previously issued by the same companies. The amount registered in the corresponding week of last year was £609,941, showing an increase of £1,086,541. The total amount registered during the 42 weeks of the present year was £66,508,156 (in addition to the issues in previous years by the same companies), as compared with £62,297,974 for the corresponding 42 weeks in 1905, showing an increase of £4,210,182.

The Profession in Scotland.

The Glasgow Chartered Accountants Students' Society.

How to read a Balance Sheet of a Commercial Concern:

- (a) *from the point of view of a Financial Expert, dealing in this connection with "Working Capital," "Fixed Capital," and the Gauging of the Position of a Company from its certified Balance Sheet;*
- (b) *from an Auditor's point of view, in respect of clear stating.*

By FRANCIS W. PIXLEY, F.C.A.

(Barrister-at-Law.)

ALTHOUGH by a professional accountant a Balance Sheet of any concern, whether financial, commercial, or of a private nature—such as the Balance Sheet of a deceased person's estate or of an individual's landed estate—can practically be read at a glance, and any ordinary explanation that may be required of him be immediately afforded, yet even by him a complete and lucid exposition of the true financial position of the concern, as disclosed by its Balance Sheet, can only be given after a special grouping of the items on the two sides of this account and a subsequent careful consideration of such groups. Even then, information outside the Balance Sheet would in nearly every instance have to be supplied to enable him to feel certain that his explanation had been a satisfactory one.

I understand that although I am addressing a meeting of those aspiring to join the profession of a Chartered Accountant, and thus becoming experts on the preparation

and criticism of the contents of Balance Sheets, it is desired I shall in the first part of my paper discuss the subject from the point of view of those whom I may describe as "partial experts."

It is always difficult when preparing a paper such as this on a subject not chosen by oneself, but suggested by those representing one's future audience, to know what was passing through their minds when they selected the subject, and I can only hope that in the preparation of this paper I have rightly interpreted their wishes as conveyed to me.

I will therefore commence by assuming that the financial expert referred to in the title of my paper is not a Chartered Accountant, but, at the same time, is well versed in ordinary business matters, fully understands what a Balance Sheet professes to represent, and now wishes to study one for the purpose of ascertaining from the material at his disposal what is the exact financial position of the commercial concern represented by that Balance Sheet.

The object the financial expert may have in view may be financial criticism for newspaper purposes, or it may be the satisfying himself that any money he may have invested in the concern is safe, and that it is advisable to retain his investment; or it may be the ascertaining whether the commercial concern is one in which he may safely recommend friends or clients, or the public at large, to invest capital.

Whatever may be the object of his investigation makes very little difference as to the method of procedure the financial expert should adopt. We are not concerned with what use he intends to make of his knowledge when obtained, but only with the principles which should guide him in his endeavours to obtain the information he requires.

Now, at the outset it may probably occur to many that as the Balance Sheet in front of the financial expert is accompanied by an auditor's certificate, this special criticism is unnecessary, as he can surely rely upon the facts as disclosed by the Balance Sheet, seeing it is certified by someone whose professional standing should be a sufficient guarantee for him of the correctness of the details set out therein. It would be well indeed for the commercial and investing public were this to be the case, but, unfortunately, one has to admit that this state of perfection is not yet arrived at, that it will take a very long time, and much progress will have to be made both in educating the public mind and legislators when dealing with company reform before such can be arrived at, and I am bound to say I cannot myself see how, with the best will in the world, such a much desired state of affairs can ever be reached.

Balance Sheets of commercial concerns are, with a few special exceptions—such as those of Banks, Insurance Companies, Discount Houses, and a certain number

of Financial Institutions and Trading Concerns—not statements which show in simple form the actual liabilities and actual assets of the concern. The expression "Balance Sheet" has a technical meaning quite apart from the popular notion that it is simply a statement of assets and liabilities, although they are very frequently identical.

This mistaken notion is probably due to the fact that it was formerly the practice to place the words "liabilities" and "assets" at the top of each Balance Sheet in place of the ordinary abbreviations for the words "debtor" and "creditor," a mischievous practice, which even at the present time has not altogether disappeared.

In the first place, no concern can have a Balance Sheet whose books are not kept upon a complete system of double-entry bookkeeping, since a Balance Sheet, as all the members of my audience are aware, is a specially prepared statement, setting out in groups the balances of the Ledgers after the completion of the Profit and Loss Account.

As the grouped balances placed on the debtor or liability side of the Balance Sheet include certain items which are not liabilities, and the grouped balances placed on the creditor or assets side of the Balance Sheet include certain items which are not assets, it is quite evident that though an auditor may properly certify the correctness of the Balance Sheet containing such items, the statement itself does not, at first view, afford such information to a financial expert as is necessary to make himself thoroughly acquainted with the position of the commercial concern engaging his attention.

Many persons habitually use the word "assets" for any item which may appear on the credit side of the Balance Sheet, but I do not agree with that interpretation of the word; I approve of the definition given in the "Encyclopædia of Accounting"—a work to which so many of our profession both in Scotland and England, including myself, have contributed—namely, that the term as used in business now means all available property and rights which can be applied in satisfaction of liabilities, or which can be turned into money or money's worth.

The financial expert, when considering a Balance Sheet for the purpose of forming an opinion upon the commercial concern whose financial position is stated to be correctly shown by such Balance Sheet, must necessarily consider in detail the items of which it is composed; in other words, the only method of criticising any Balance Sheet is to examine in detail both the debtor and creditor side of that account. On the former or debtor side is set out the liabilities of the concern, including not only the outside liabilities, or the debts due to the creditors, but also the indebtedness of the concern itself to the owners of the business in their private capacities, and also the apparent indebtedness of the concern itself to sundry

impersonal accounts, the appearance of which impersonal accounts in a Balance Sheet is so bewildering to those ignorant of the science of bookkeeping.

On the other or creditor side are enumerated the assets of the company which contain the property representing the "fixed capital" and the "working capital" embarked in the business, and also sundry other accounts which I have already referred to as not being assets, but which are supposed to represent value. It also includes certain impersonal accounts, such as the deficiency on Profit and Loss or Revenue Account, should there be any; a difference, if any, in the balancing of the books, or perhaps some items in suspense; which items on the creditor side of a Balance Sheet are as bewildering to the non-expert as are those on the debtor side, to which I have just referred.

It is immaterial which side of the Balance Sheet is first subjected to criticism, and were I to ask the opinions of my audience as to which is the better to take first I should very likely find them about equally divided in number. Personally, I should commence with the debtor side, so as to arrive at the full indebtedness of the concern, and then ascertain whether the assets were of a sufficiently satisfactory nature to ensure these liabilities being discharged.

Commencing, therefore, with the debtor side of the Balance Sheet, the first item which will come under the notice of the financial expert depends as to whether the Balance Sheet is that of an individual or firm, or that of a company. In the case of a company, it is almost the universal practice to set out the Shareholders' Capital at the top of the debtor side of the Balance Sheet; while in the case of the Balance Sheet of a firm or individual this is not the usual practice. In any case, however, in criticising the debtor side of a Balance Sheet it is desirable that the liabilities to what we may call "outside creditors" should be first of all considered, and for that purpose I propose to group them together.

Creditors may either be fully secured, partly secured, or totally unsecured, except in the sense that, of course, all creditors are legally secured to the extent of the value of the free or uncharged assets belonging to the commercial concern. Creditors of concerns owned by limited companies are in addition further secured to the extent of the uncalled capital; while those of unlimited companies have the additional security of the private property of all who may be partners in the concern. The owners of many commercial concerns are only able to carry on their business by supplementing their capital with borrowed capital. In the case of a company, the persons who supply this borrowed capital may hold debentures, which debentures may be secured by a mortgage of, or charge on, specific properties, or they may

hold what is called a general floating charge on all the assets of the company, or they may hold debentures which are certificates of indebtedness only, but these are now rarely issued. In the case of a firm or an individual, borrowed capital is generally supplied by means of a mortgage on specific assets, or by an ordinary loan made at a fixed rate of interest, or at a fixed rate of interest with the additional right to participate to a certain extent in the profits of the business.

Now, it is of the highest importance to the financial expert that he should ascertain from the Balance Sheet as to whether any of the creditors are secured, and, if so, to what extent, also the exact conditions under which this borrowed capital is supplied, as without this knowledge he will be unable to gauge the value of the assets when he comes to deal with the credit side of the Balance Sheet.

Should the Balance Sheet not disclose this information, or any other information with which the financial expert may consider it essential he should be supplied to enable him to effectually carry out his object in view, he should, in those cases where it is possible, apply for this information, and on obtaining it he will be able to make a calculation as to what extent, if any, the so-called secured and partly secured creditors would have a special claim on the assets of the concern when he prepares an amended Balance Sheet as the result of his investigation. On the other hand, this information will enable him to ascertain what surplus of assets there may be available for the benefit of the unsecured creditors after discharging all liabilities to secured and partly secured creditors. Should, however, no information be obtainable outside the Balance Sheet itself, calculations of this description, however desirable, and, in fact, necessary to the full appreciation of a Balance Sheet, are impossible.

As in nearly all cases where money is borrowed on security the deed provides that the interest on the loan shall also be covered by the security, the financial expert should satisfy himself, as far as possible, that the whole of the interest accrued on these secured loans is included amongst the liabilities under the heading relating to the secured creditors. Interest on all the loans should, of course, be included amongst the liabilities under the proper heading; but as the Balance Sheet has been certified by auditors the financial expert may safely assume this is the case.

The next item for consideration is the amount due to the creditors for goods supplied to the concern in the ordinary course of business; these creditors, known as "Trade Creditors," may be divided into two classes—namely, those in respect of "Bills Payable" and those on "Open Account."

Now, few Balance Sheets are ever submitted which fully explain the financial conditions under which the

commercial concern works, without greater detail having to be obtained than is disclosed by the figures. It is possible for the Balance Sheets of two commercial concerns showing identical figures on both sides to be perfectly correct in an arithmetical or bookkeeping sense, although the business of the two concerns may be carried on under totally different conditions. The amount due to creditors on "Bills Payable" forms an example of what I mean. In one case the concern may have to pay within, say, fourteen days to thirty days at the outside for goods purchased, while in the other case it may have credit varying from three to twelve, or even eighteen months. If the financial expert is criticising the Balance Sheet for the purpose of carrying out a financial transaction which may alter the constitution of the concern, the consideration of the terms of credit as disclosed by an analysis of the "Bills Payable Account" is of the utmost importance. I am, of course, here assuming that the financial expert has the means of obtaining information outside the four corners of the Balance Sheet in front of him from those who prepared the Balance Sheet, or who submitted it to him for his opinion; but should he be criticising it for purposes antagonistic to those owning the concern, such as sometimes falls to the duty of the editor of the money article of a newspaper, details such as I am referring to cannot, of course, be obtained, and he will have to do as best he can without them.

Should, however, the transfer of a concern to a limited liability company be under consideration, or a proposed new partnership be in contemplation, then, of course, full information will be obtainable by the financial expert, and he should divide the bills of exchange payable into groups representing the various periods of time over which they are current. If as a result there is an appreciable amount due to creditors on bills drawn for long periods, especially, say, over three months, he must certainly take into consideration as to whether this long system of credit will be affected by the change, or partial change, of ownership when the financial scheme he has under consideration has been carried out. The result obtained from the grouping of the creditors on "Bills Payable" will be useful, if the financial expert wishes to make calculations as to the period within which the funds on the assets side of the Balance Sheet can be made use of in the discharge of these "Bills Payable."

As regards the amount due to creditors on "Open Account," no special remarks are necessary, unless the financial expert is desirous of ascertaining within what period the free assets can be realised for the purpose of paying these creditors, and this information he can only ascertain by inquiry.

There may, of course, be creditors of a special class—such as those who may have deposited money with the

commercial concern, as will be found in the Balance Sheets of Bankers, Discount Houses, Brewers, &c.—but whether they are set out separately, as they ought to be, or included amongst other creditors, is not of so much consequence from the financial expert's point of view as regards the mere accuracy of the accounts. The question as to whether the nature of the assets admit of a punctual discharge of these liabilities in connection with the payment of the other liabilities will be dealt with by me later on.

The Balance Sheet of a concern may have among its liabilities, either shown separately or included among the "Sundry Creditors," a loan from its bankers; should the amount be included under the heading of "Sundry Creditors," and the financial expert be unable to obtain any details of the items in the Balance Sheet, he will, of course, be unaware of this fact, and cannot take advantage of it; but should it be disclosed openly on the Balance Sheet, as it ought to be, the accounts having been certified, several points for consideration will arise.

The loan may have been effected merely because the Bank rate is low, and it is preferable to take advantage of this condition of the money market to borrow than to sell good securities; or because owing to a depreciation in securities, where it is hoped the prices at which they were purchased may again prevail, it is inadvisable to part with them. It may be there has been a difficulty in collecting the book debts, or in realising stock, that recourse has been had temporarily to the bankers; or it may have been a case of dire necessity. Whatever reason, however, there may have been for the loan, the bankers will have taken security, which should be, of course, disclosed on the face of the Balance Sheet.

Having obtained all the available information as regards the creditors of the concern, the financial expert has then for consideration the items in the Balance Sheet representing the amount due to the owners thereof by the concern itself, or what is known as the "Capital."

Perhaps no term in economics has given rise to more controversy than the definition of the word "capital." According to the "Encyclopædia of Accounting," in economics it may be said to have the following meanings:—

- (1) Wealth which yields revenue.
- (2) Wealth set aside for future production.
- (3) Wealth set aside for the satisfaction of future needs.

In the above three definitions capital may be said to be defined according to the point of view from which it is regarded, either as—

- (1) Yielding revenue.
- (2) Producing more wealth.
- (3) Reserving means for future enjoyment.

John Stuart Mill, in originating the recognised classical

division between fixed and circulating capital, gives the following definition:—

“Capital which fulfils the whole of its office, in the production of which it is engaged by a single use, is called ‘Circulating Capital’; capital which exists in any durable shape, and the return to which is spread over a period of corresponding duration, is called ‘Fixed Capital.’”

As a result of this definition, “Fixed Capital” is thus invested capital—such as Public Works, Railways, Canals, Machinery, Houses, Improvements to Land, and, in fact, everything productive which is at the same time durable, and to a certain extent of a permanent nature. “Circulating Capital” is capital represented by Raw Materials, Metals, Minerals, and actual produce of land, and of what is set aside for the sustenance of labour; but, as the writer in the “Encyclopædia of Accounting” of the article under “Fixed and Floating Capital” says, the definition between fixed and floating capital to a large extent depends upon the intention of the capitalist, and he gives the following very excellent example:—That furniture represents the bulk of the floating capital of a furniture dealer, but forms part of the fixed capital of a hotel proprietor. He also says that in his opinion—in which I certainly agree—the term “Fixed Assets” would be a better expression to use, and to this may be added that the term “Working Capital” is a better expression, from our point of view, than “Floating Capital.” These terms are, however, exceedingly difficult to use when dealing with the actual accounts of any commercial concern, as although the actual capital embarked in a concern may approximately be divided into “Fixed Capital” and “Working Capital,” yet it cannot be done accurately, as it is certainly liable to change from time to time according to the circumstances under which the concern may be worked, and consequently how the capital may be employed.

When a commercial concern is owned by a company the capital of the owners is represented by what is known as “Share Capital,” which may be divided into several classes, each class having specially defined rights and privileges. In other words, it is represented by what are usually described as “Ordinary Shares” and “Preference Shares.” The “Ordinary” share capital is that which, as a rule, has to really bear the brunt of the risks inseparable from commercial undertakings, while as an equivalent it is entitled to receive the largest share of the profits. The “Preference” capital has the advantage of being entitled to a first claim on the profits of the undertaking, but usually to a limited extent, but such profits are not always confined to that amount, and they are sometimes extended so as to include a further share after the owners of the ordinary shares have received a fixed

minimum dividend. Again, the preferential capital may only be entitled to participate in profits earned in each particular year, without the right to have any deficiency made good out of the profits of succeeding years, or the shares representing this capital may be known as “Cumulative Preference Shares,” which entitles their holders to the full amount of their minimum dividends being satisfied out of future profits, no matter how much such dividends may be in arrear, before the owners of the ordinary shares receive any return on their capital. Then, again, this capital, which may be preferential for dividend receiving purposes, may, or may not, be preferential according to the terms on which it was issued, so as to allow of it being first of all repaid in full to its owners out of the assets of the concern, should it ever be wound up—that is, before the owners of the ordinary capital are allowed to participate in any return of capital which may be made by the liquidator.

The financial expert should endeavour to ascertain from the Balance Sheet, and, if this is not possible, by means of inquiry, if available, the exact privileges and disadvantages attached to the holding of the various classes of share capital, should there be more than one class issued.

In the case of the Balance Sheet of a firm there is only one difficulty confronting the financial expert with reference to the amount which appears thereon as being the capital of the owner or partners, and that is to know if the capital has really been supplied out of the private property of the owner or partner, or whether it has been found by a relative, or relatives, who, in the event of insolvency, may put in a claim to rank for dividend *puri passu* with the other creditors.

Now, when one comes to consider the question as to whether the share capital of a company owning a commercial concern is “fixed capital” or “working capital,” one is at once confronted with a difficulty. Once subscribed for and paid over to the directors of the company it must remain in their hands, to be employed according to the sections of certain public Acts of Parliament, and also to the sections of a private Act or the memorandum and articles of association, as the case may be. Should the directors at any time, such as during a period of commercial depression, not be able to make use of the share capital for the recognised business transactions of the company, they cannot return it to the shareholders, but are obliged to retain it. As a consequence, the directors, wishing it not to remain unproductive, invest it in interest-paying securities until trade improves and it can be again employed in the regular business of the commercial concern.

From a political economy point of view such portion of the capital belongs to “working capital,” and the capital of the shareholders would be divided into “fixed capital,”

represented by such portion of the share capital as had been expended in the acquisition of Land, Buildings, Plant and Machinery, Fittings and Furniture; and "working capital," represented by the balance of the share capital expended in Stock-in-trade, Wages, Works-in-progress, &c., or perhaps represented by amounts due from debtors for goods sold to them.

From a business point of view, however, such share capital would be represented by "fixed capital," but which "fixed capital" is constantly varying; by "working capital," which is also more continually varying; and "surplus capital," which, if compelled to remain in the hands of those managing the commercial concern, may become unnecessary capital from a business point of view.

A portion, if not the whole, of the money borrowed, such as that secured by the debentures of a company, or by the mortgage of the property either of a company or a concern owned by a firm or individual, would as a rule form part of the "fixed capital" from the point of view of a political economist, according to the manner in which it is employed, and the same difficulty naturally arises in endeavouring to arrive at the apportionment of this borrowed capital between fixed and working capital.

In my opinion, therefore, although the terms "fixed capital" and "working capital" are very usefully employed in academic discussions on political economy, they are quite unsuitable for use in connection with the stating of Capital Accounts in the Balance Sheets of commercial concerns, and are liable to mislead those who try to make use of them.

Should there be any items remaining on the debtor side of the Balance Sheet of the commercial concern, whether owned by a company or a firm, they must consist of Ledger balances, representing surpluses of one or more kinds. That is, surpluses subject to the realisation of the items on the credit side of the Balance Sheet at not less than the value affixed to them. Such surpluses may consist of any of the following:—

In the case of a firm—

General Reserve.

Special Reserves.

Profits arising from the business not yet carried to the Capital Accounts of the partners.

In the case of a company—

General Reserve.

Special Reserves.

Balance of the Profit and Loss Account or Revenue Account, available either for dividend purposes or for appropriation to some other purpose.

With the exception that the financial expert should, as far as possible, ascertain that the reserves, whether general or special, are sufficient in amount for the purposes for which they appear to have been created, it does not appear

to me that any special remarks of mine on these items are necessary, as the whole of my remarks are based on the assumption that the accounts are being reviewed by a financial expert—that is to say, an expert perhaps not so skilled in accounts as a Chartered Accountant, but an expert supposed to be sufficiently skilful to understand ordinary bookkeeping expressions.

These surplus balances of the Balance Sheet may, however, be able to afford very important information to the financial expert, as one or more of them may clearly show what have been the actual net profits of the concern for the period terminated by the date of the Balance Sheet. A Balance Sheet does not by itself necessarily give any indication of the financial result of the business transactions for any particular period, which is the reason why so many private banking firms, where the capital is held entirely by a few partners, have long been in the habit of issuing for the benefit of their customers a Balance Sheet showing the financial position of their bank, but they do not publish with it the corresponding Profit and Loss Account, the contents of which they consider is a matter solely affecting the partners themselves.

As regards profits arising from the business of a commercial concern owned by a firm not yet carried to the Capital Accounts of the partners, they to all intents and purposes may be looked upon as part of the capital itself. In many cases it is the practice for the partners to carry these profits to the credit of their respective Capital Accounts in the Private Ledger before the Balance Sheet of the firm is made out; in others, partners prefer never to alter their original capital, and leave these surplus, or undrawn, profits standing to their credit in the Balance Sheet under special headings. In other words, they like to treat their original capital as "Fixed Capital," looking upon the other as "Working Capital," so long as it remains in the business, such "Working Capital" being withdrawable at any time for their own private use, should there be cash available for such a purpose. Of course, the actual value of this unappropriated profit really depends on the value of the assets on the other side of the Balance Sheet.

In the case of the balance of the Profit and Loss Account, or Revenue Account, of a company remaining unappropriated, this, of course, is never added to the original capital, and therefore, as long as it remains in the business, forms part of the "Working Capital" as distinct from the "Fixed Capital."

A financial expert may have in front of him a Balance Sheet which contains on its debtor side an item which he cannot understand, owing perhaps to an obscurity of the heading under which this item is placed. In such a case he must endeavour to ascertain whether it is a real liability which may be ultimately repre-

sented by a personal claim on the uncharged assets, or whether it is only a credit balance from the Ledger representing a surplus which will never be a claim against the assets, or, in other words, is something to the good.

Turning now to the creditor side of the Balance Sheet, it will be absolutely necessary for anyone who is not accustomed to reading Balance Sheets at a glance, and certainly desirable, if not necessary, for those who are so accustomed, to group the items under headings. From the political economy point of view the scientific grouping of such items would be placing them in divisions according as they represent either "Fixed Capital" or "Working Capital"; and although this may be borne in mind when the financial expert comes to sum up the result of his investigation, it will be more convenient for him to group the items into divisions, to be considered from the practical point of view of the assets being quickly or slowly realisable, with an additional group consisting of those items which are not really assets at all, but debtor balances of Ledger Accounts. For this purpose the following method of grouping the items on the creditor side of the Balance Sheet will be as practical a form of dealing with them as any:—

- (1) Assets being actual cash, or which can be immediately converted into cash.
- (2) Assets which can be realised at comparatively short notice.
- (3) Assets which will take a certain time to realise.
- (4) Doubtful assets which are only expected to realise a certain percentage of their value.
- (5) Other items which can only be realised so long as the business is a going concern.
- (6) Unrealisable items.

With reference to the first item, or assets being actual cash, or which can be immediately converted into cash, this will, of course, include the cash in hand and the balance at the bankers—that is, the balance of the current account at the bankers. I purposely use the words "Balance at the bankers," and not "Cash at the bankers," as I should like here to take the opportunity the reading of this paper affords me to publicly express my views on that which I have come to consider a distinct blemish in the Balance Sheets of companies—that is, in the practice of the directors describing what is the balance of the current account at the bankers as "Cash at the bankers." It does not represent cash sent by companies to their bankers in boxes for safe custody, to be removed at the pleasure of the directors; were it so the description would be correct. It is, however merely the amount to the extent of which the directors can issue demands in writing on the bank to make payments on the company's behalf. I claim, therefore, that the usual stereotyped statement "Cash at bankers" is a distinctly incorrect one.

I doubt if any bank could on any given date produce to the auditors of all the companies whose banking accounts they keep, and whose published accounts are issued, a sufficient number of notes and coin representing what is described in these various Balance Sheets as "Cash at the bankers." In fact, an inspection of the published Balance Sheets of the bankers themselves would prove the correctness of my statement, and therefore what is so often described as "Cash at the bankers" is only on a par with a debt due from any other solvent debtor to the commercial concern in question, I should therefore like it to be prohibited by law for the directors of any company to describe in its Balance Sheet as "cash" anything but bank notes, gold, silver, and copper in their own vaults, or deposited elsewhere in specie for safe custody only.

Under what heading, however, it may be described, both "Cash in hand" and "Balance at bankers" may be included in the first group of assets, being actual cash, or that which can be immediately converted into cash.

Another item which comes under the same heading will be "Deposits at call" at a banker's or recognised first-class discount house.

Under the second heading, or "Assets which can be realised at comparatively short notice," may be included all investments which can be converted into cash on the next Stock Exchange Settling Day, for although certain investments, including Consols, may be sold for cash, yet this is a very unusual transaction, and for our purpose they need not be placed in the same group of assets as that which I have classified as No. 1.

For the purpose of ascertaining whether the investments as shown in a Balance Sheet may properly come under the second and not under the third heading, a list of the investments will have to be obtained by the financial expert, who, by comparing these details with the Stock Exchange Official List, will be able to make his own calculations as to the correctness of the value placed upon them, and whether they can be sold so as to place the amount realised at the disposal of those directing the commercial concern within an interval not exceeding, say, a fortnight.

Any money placed on deposit at seven or fourteen days' notice may also be included under this heading, as may also any amounts in respect of bills receivable due not later than the next Stock Exchange Settling Day.

The third group of assets, consisting of assets or property which, while admittedly of value, would take a certain time to realise, will form probably the bulk of the assets of a commercial concern. Under this heading may be included investments which are not quoted on the Stock Exchange, or if quoted are of such a nature as to require gradual realisation. It must be borne in mind that there are a very large number of investments included in the

Official List of the London and other Stock Exchanges whose quoted prices cannot be altogether relied upon when considering them for purposes of rapid realisation. There are many securities in the class called technically "Industrials," very many more in "Mines"; and my observations apply perhaps more especially to shares in mining companies, where the sale of a certain number of shares will at once so affect the market price as to render it impossible for the immediate realisation of a further group of them to take place without a considerable fall occurring in the quotation. In other words, the shares of many companies, if placed on the market for sale in any quantity, are liable, to use a popular expression, to knock the bottom out of the market to such an extent that any attempt to realise the whole of the security would result in a very heavy loss. On the other hand, if the security be nursed, and an opportunity given to the market to recover itself, the shares may ultimately be disposed of at the full value of the quotation given in the Official List.

In the same group will be included the amounts due by the debtors to the concern. It is almost impossible, where these amounts are brought together under a simple heading such as that of "Sundry Debtors," to gauge their value as an ultimately realisable asset, and it is still more difficult to know how much of it may be relied upon to be collected at short notice in the event of money being required by the concern for any special purpose. To thoroughly gauge the value of this asset the debtors should be grouped first of all under the familiar sub-headings of "Good," "Doubtful," and "Bad," and then, for the purpose of ascertaining how quickly the amounts can be available to meet emergencies, the "good" debtors would have to be further grouped according to the dates by when they are likely to be converted into money.

As regards the debts which come under the heading of "Doubtful," a certain amount, usually a percentage, ought to be written off and charged against the Profit and Loss Account, the balance only being brought to credit in the Balance Sheet; while, of course, any balances included under the heading of "Bad Debts" ought to be entirely eliminated, unless the Balance Sheet has been prepared on the basis of bringing in the whole of the debts among the assets, having on the debtor side of the Balance Sheet a reserve to meet any loss likely to arise on their realisation.

Should the Profit and Loss Account be available for inspection by the financial expert, it may be very advisable for him, depending, of course, as I have already stated, upon the reason for his criticism, to ascertain the proportion the amount of the debtors bear to the turnover, or the business done; and if he is an expert in the particular class of business the accounts of one of which are under review this may be a very good indication to him

as to whether the management of the concern is or is not satisfactory. If, moreover, he has the means of comparing the turnover and the amount due from debtors with those shown in the accounts of previous years, he will have still better information on this point.

Bills receivable on hand would be placed amongst this group of assets, although, of course, should the financial expert be aware of the fact that some fall due for payment in the course of a few days from the date of the Balance Sheet, he might include them even in Groups 1 or 2, according to the dates. Speaking generally, however, they will come under the same group as the amounts due from the debtors on open accounts, being of a similar class of debt, subject to the difference that the actual dates for their payment are definitely fixed.

Freehold and leasehold investments both come under the group of assets which would take time to realise, if for any reason it became necessary to convert them into money. They, of course, are included in what may be described as the best class of assets, and they are the principal items which would come under the heading of "Investments representing Fixed Capital," or under the classification which I have previously described as being the better one—namely, "Fixed Assets."

These items do not, in many instances, represent the whole of the fixed assets, and, of course, in the case of commercial concerns owning plant and machinery such property, together with furniture and fittings, implements and other working tools, would all come under the heading of "Fixed Assets," but would not be placed in the group of assets we are now considering.

Personally, I should be disposed, in the case of a concern owning a large amount of stock-in-trade which is never reduced in value below a certain minimum, to treat the capital invested in such stock-in-trade up to that minimum as an investment of "fixed capital," or as a "fixed asset," and, of course, the amount expended in the acquisition of a business, or what is commonly known as "goodwill," is certainly another investment of "fixed capital," but whether you would call "goodwill" a "fixed asset" is another matter. Neither of these items would, however, be included in this group.

The value affixed to the item of Freeholds in the Balance Sheet requires consideration from the point of view as to whether the neighbourhood in which the freehold property is situated has improved or declined from the property market point of view; and if there are buildings attached to the freehold, the age of the buildings, and whether they have been maintained since erected out of revenue, also whether any expenditure of this description has been added to the original cost so as to swell the value of the asset in the Balance Sheet, require attention by the financial expert.

In the case of leasehold property the financial expert should also take into consideration the same points as regards the neighbourhood such as I have referred to in connection with freeholds, while as regards buildings erected thereon the question of charging the Profit and Loss Account with what we professional accountants call "depreciation," so as only to leave on the credit side of the Balance Sheet a value proportionate to the unexpired term of the leases, is of the greatest importance. Furniture is also included in this group, but, as a rule, this is a matter of small concern, except in the case of a hotel, where it is, of course, of paramount importance that full depreciation shall be charged for the heavy wear and tear, more especially in the case of some of the more perishable items, such as carpets, linen, and even electro-plate.

My suggested Group 4 contains doubtful assets which are only expected to realise a certain percentage of their value. As an example of what would come under this heading would be the plant and machinery of a manufacturing concern. There may, of course, be a certain amount of loose plant of so new a description of manufacture that a price somewhat near that taken credit for in the Balance Sheet might reasonably be expected to be realised, but, as a rule, plant and machinery are specially manufactured to the order of the firm or company for whom such goods are intended, and consequently will be comparatively of little value to anyone else, even to those carrying on a similar business.

It must not, however, be supposed that I am suggesting that a financial expert should as a rule criticise a Balance Sheet from the point of view of what the assets are likely to realise should the concern be wound up; as I have already stated, the method of criticism of a Balance Sheet by anyone must depend entirely upon what use is going to be made of such criticism when completed. All that I am suggesting here is that, in the consideration of the nature of assets of the description such as are now under review, it must be borne in mind that there is a great difference from the point of view of value to be attached to the assets of what is known as a "going concern" to those of a similar concern about to be broken up. In the former case, of course, the sale price, or the breaking-up price, must not be taken into consideration, for if looked at from that point of view the Balance Sheet of scarcely any prosperous concern in Great Britain would be found to be solvent.

Trade and other fittings, of course, come under a similar heading, and will require the same amount of consideration.

One of the most important items of this group in all manufacturing and trading concerns would be the Stock-in-trade, and for the purpose of satisfying himself that a

proper value has been inserted in the Balance Sheet in respect of this item, the financial expert would require to be informed of a number of facts which he is not likely to see stated on the face of the Balance Sheet itself. It is, of course, impossible to lay down any fixed rules which apply to the criticism of the value placed upon stock-in-trade generally. In some commercial concerns the stock consists of perishable goods, and in that case a very large amount of depreciation ought to be allowed for stock that has been long on hand; while the same remark will apply, but from a totally different point of view, supposing the stock-on-hand does not deteriorate, but becomes unsaleable through its being out of fashion. This applies to all drapery and millinery businesses; also to certain fancy stationery and printing businesses where stocks of fancy stationery and Christmas and New Year cards are dealt in, while even in the case of the business of furniture dealers, and of general upholsterers, changes in fashion cause their stock-in-trade to depreciate in value.

Group 5, consisting of items on the creditor side of the Balance Sheet which can only be realised assuming the business to be a going concern, includes those items which may or may not be assets, according to the special circumstances surrounding them.

In this group is included any amount which may have been paid for the acquisition of the business, supposing the present proprietors of the commercial concern were not the original founders thereof. In the case of a firm, the goodwill is usually paid for in cash by the new to the old proprietors; in the case of a company, it is nearly always partly, if not entirely, acquired in exchange for shares in the company, which shares may be either ordinary or preference, or a proportion of each. Occasionally, but not frequently, the vendors receive debentures in the company; but, as a rule, the purchase-money is represented entirely by shares, or by a combination of shares and cash.

Now, in nearly every case the price paid by a company for the goodwill of a commercial concern is very much higher than is usually paid to the vendors when the business is sold to private persons. This is, of course, only natural, as in the case of a sale to private persons the purchasers, as a rule, intend in the future to devote the whole of their time and energies to the business, and consequently expect to not merely receive a dividend or interest on the investment of their capital, which shareholders in a company have only the right to expect, but, in addition, proper remuneration for the time and ability they devote to the management of the concern in which they embark their capital.

It therefore follows that, as a rule, the amount taken credit for in the first Balance Sheet of a company in respect of goodwill is far in excess of what could possibly be obtained should the company wish to

dispose of it. A financial expert, in considering this item, must regard it therefore as being, at the outside, only of the value placed upon it, assuming the commercial concern to be continued as a going concern, and if the company is paying reasonable dividends, and the Balance Sheet, as far as can be ascertained, has not over-valued the assets and has made due depreciation for contingencies, or, in other words, it has adequate reserves, the value placed upon the item of Goodwill is practically beyond criticism. The goodwill exists, and, having regard to the law on this subject, no shareholder or auditor, or financial expert, has any right to complain should the amount never be reduced, but stand as an unalterable item on the credit side of the Balance Sheet. Should, however, the company not be paying fair dividends, and the general appearance of the Balance Sheet leads the financial expert to believe it is possible that the days of the company are numbered, then, in coming to his conclusions based on the result of his criticism, he will naturally take the value taken credit for in the Balance Sheet in respect of goodwill into serious consideration.

I am also, of course, assuming that the goodwill stands at the same figure in the Balance Sheet as that paid in either "meal or malt" for its acquisition from the vendors to the company, as, of course, it would be quite improper for this to be increased by any other means than by the addition to it of the price paid for the acquisition of another business to be carried on in conjunction with that originally purchased.

As an example of another item which would come under this group "Work in progress" of engineering or other manufacturing companies may be selected. If this asset is calculated on the proper basis of taking credit for the cost of materials purchased and wages expended thereon, the amount cannot properly be objected to by a financial expert, and not even should a percentage of profit bearing proportion to the profit expected to be realised on the completion of the works be added. The ultimate realisation of this asset depends, however, entirely as to whether the commercial concern is kept going until the completion of the works referred to. Should anything occur to stop the business, or should anything happen to hinder the progress of the work, such as a strike of the workmen, then, although the business itself might continue, this unforeseen or unexpected event would have to be taken into consideration, and for purposes of realisation the asset may even be worth nothing at all, or only a small percentage of the value taken credit for. As a further example, although in a smaller degree, pit timber in a mine can very properly be taken credit for at its cost price, or at cost price subject to depreciation, according to its age, so long as the mine is a going concern; but should the mine be shut down, the value might

entirely disappear, as it may be absolutely not worth the expense of pulling out the timber, bringing it to the surface, and selling it for firewood.

What I call the sixth group includes items which are absolutely not realisable under any circumstances whatever, but so long as the commercial concern carries on business it may be quite proper to include such items on the credit side of the Balance Sheet.

The amount expended in advertising a business, or some special article sold by the commercial concern, the benefit of which expenditure it is expected will continue beyond the date up to which the Balance Sheet is made up, may very properly be treated in suspense, and carried to the credit side of the Balance Sheet after charging a proportionate part of the expenditure against the Profit and Loss Account of the period ended by the date of the Balance Sheet.

It is, of course, a part of the financial expert's duty to endeavour to ascertain as well as he is able whether this apportionment between capital and revenue has been made on a proper businesslike basis. A similar remark would apply to a balance which might appear on the credit side of the Balance Sheet in respect of some unusual outlay on repairs to buildings, the benefit of which it is expected will be experienced over a term of years, and which, it is felt, it would be unfair to charge against the profits of the year in which such expenditure had been incurred.

The most unsatisfactory item which can appear on the credit side of a Balance Sheet, and which certainly comes under this group, is a balance brought forward from the Profit and Loss Account, as such an item must necessarily represent a loss on the trading of the concern up to date, subject, of course, to the question as to whether it is entirely the result of trading, or caused by any distribution which may have been made from time to time to the partners or shareholders. If the financial expert is able to obtain an analysis showing how this balance has been arrived at since the establishment of the concern, it will, of course, assist him when arriving at his general conclusions based on his criticism of the whole Balance Sheet.

And now, having classified the items on both sides of the Balance Sheet, the financial expert has to exercise his ingenuity as to the best way to make use of the material he has gathered together. Should the object of his labours be merely the writing of an article for a financial paper, he will in nearly every instance have to rely solely on the contents of the Balance Sheet, with the assistance, however, in most cases of the Profit and Loss Account, which, with the exception in the case of the accounts of private banks already referred to by me, and in a few other instances, invariably accompanies a printed Balance Sheet. He will also, in the case of old-established companies, probably

have the advantage of being able to refer to both the Profit and Loss Accounts and Balance Sheets of the years immediately preceding, and in this case an expert of ingenuity and experience will find many ways of detecting any weak points there may be in the Balance Sheet he is engaged upon. In any case, he will do well to prepare a Balance Sheet for his special purpose setting out the items under the headings or groups I have already suggested, and which will in most cases be quite at variance with the actual Balance Sheet. He will thus be able, with the assistance of the previous Profit and Loss Accounts, more particularly if these are accompanied by Trading Accounts, to ascertain whether the company has been making proper use of its capital on the one hand, or over-trading on the other; whether the stock-in-trade has unduly increased in proportion to the increase in the sales; or, if the Profit and Loss Account is not available, whether the amounts due by debtors are higher in proportion to the amount due to creditors than they were, say, five or six years ago.

It is, of course, impossible, without taking several Balance Sheets, grouping the items in the way I have suggested and commenting upon these groups in detail, which is impracticable, in an address of this nature to do more than indicate the lines upon which criticism can be conducted on the meagre information conveyed by printed accounts alone, but experience in these matters, like in everything else, is of great advantage.

If the object the financial expert has in view is advising as to whether it is desirable to invest in the shares of an existing company, he will, of course, take special note of the following points amongst others. He should ascertain whether the net profits for the immediate past few years have been steadily increasing, or the reverse, or whether they have been irregular; also the same as regards the dividends actually paid to the ordinary shareholders. The percentage the gross profits for the same years bear to the sales; and also the percentage the net profits bear to such sales should be taken into consideration. The term for which money has been lent by debenture-holders or other secured creditors, and if it has to be paid off within a fairly near period, is of great importance, and consideration must be given as to whether it is likely arrangements can be made for the renewal of these loans, and the general effect upon the business of the concern should such loans not be renewed. The financial expert should ascertain the proportion the amount due by the debtors bears to the total annual sales of the concern, and also form an opinion as to whether a sufficient amount of depreciation has been allowed and charged against Revenue Account in respect of any wasting assets. As regards depreciation, I am, of course, speaking from the business point of view, without

any regard whatever to the fact whether it might legally not be required to charge such depreciation.

While on this point I should like to call your attention to the fact that *Lee v. Neuchâtel Asphalte Company* does not prescribe that by law companies formed to work wasting assets need not charge in their Revenue Accounts depreciation in connection with these assets.

From the answers given by students of the English Institute which, as a frequent examiner in the auditing papers, have come under my notice in the last few years, the majority appear to be under this erroneous impression.

The judgment of the Court of Appeal confirming the decision of Mr. Justice (subsequently Lord Justice) Stirling laid down nothing more than this, that a company formed to acquire a wasting asset, and registered with memorandum and articles of association similar to those of the Neuchâtel Asphalte Company, need not set apart a sinking fund to meet the depreciation in the value of the wasting property. It has long been a well-known fact that the heading to this decision in the Law Reports is an incorrect one.

As soon as the financial expert has formed his opinion of the value of the uncharged or free assets he can then address himself to the important question as to whether these assets, as they become available for the discharge of the liabilities, will be sufficient in value to do so, and able, moreover, to discharge them at their due dates.

Many commercial concerns with a surplus of assets over liabilities have been obliged to suspend payment in consequence of a lock up of their resources; and no business can be deemed to be in a satisfactory financial position unless its Balance Sheet includes assets sufficiently liquid to be able to discharge all proper claims when the time for their liquidation arrives.

The consideration of the safety of the capital is, of course, of great importance, and this can be considered from two points of view. In all commercial concerns capital, when once invested, can only be recovered in one of two ways:—

- (1) By what is technically known as “winding-up” a concern—namely, a realisation of the assets and the discharge of the liabilities, the balance representing, either for better or for worse, the capital originally invested in the concern.
- (2) By transfer, in which case the owner of the capital has to find a substitute, which substitute, in the case of a single owner, can be obtained by an absolute sale of the business as a going concern; in the case of a partnership, by finding one or more partners to take the place of the retiring partner; and in the case of a public company by the sale of the owner's shares.

In the first case the financial expert, provided he has been able to obtain sufficient information to divide the assets into the groups suggested by me, will be able to put such a value on the assets as will enable him to form an approximate idea as to whether they are able to provide not only for the payment of the outside liabilities, but to make good the capital of the owners.

In the second case he will have to take into consideration the nature of the business, the persons to whom the chance of acquiring such a business, or a share in such a business, might appeal, or the market price of the shares of the company owning the commercial concern, or of other companies carrying on a similar business.

Should the financial expert's object be the advising as to whether a commercial concern is suitable for conversion into a public company, then, of course, he has the great advantage of being able to call for the fullest information in respect of any item in the accounts, and he will naturally employ a Chartered Accountant to make the investigation on his behalf; the nature, however, of this investigation does not fall within the compass of this paper. The financial expert would naturally read the Balance Sheet prepared by the Chartered Accountant on the lines indicated by me, and he could give instructions for the items in the Balance Sheet to be grouped in a manner similar to that I have suggested.

The points just mentioned by me in connection with the criticism of the Balance Sheet of an existing company would arise, while in addition the financial expert would have to take into consideration as to the best course to adopt to replace the capital of the present partners in the concern by capital to be supplied by the subscribers to the new company.

I now come to the second part of my paper, with which I shall not occupy you at any great length—"How to read a Balance Sheet of a commercial concern from an auditor's point of view in respect of clear stating."

Now, from an auditor's point of view, very few Balance Sheets are presented to him as prepared by the officials of a company which can be said to be clearly stated. That is to say, so clearly set out that anyone not experienced in accounts, as are the majority of shareholders, can fully comprehend them. The officials of the company who prepare them understand them, the directors sometimes do but very frequently do not, and the auditors, when Chartered Accountants, are eventually able to do so, but the shareholders, for whom they are specially designed, are as a rule quite unable to comprehend them.

Commencing as before with the debtor side of the Balance Sheet, and taking as the first item the Creditors, it is very seldom expressed clearly on the face of a Balance Sheet in the case of secured creditors the real extent to which such creditors are secured. When the creditors are fully secured

the amount due to them ought not to be set out on the debtor side of the Balance Sheet at all, either in strictly accurate accounting or as a matter of clear stating, but the amount due to them should be deducted from the value set out on the creditor side of the Balance Sheet as being the value of the property pledged to meet this indebtedness, and only the balance or surplus brought forward should be inserted and included in the total on the creditor side. This surplus would then represent the balance available to meet the claims of the other creditors of the company after the claims of those who hold it as security have been disposed of. The majority of shareholders and creditors are usually under the impression that the total value of the assets as set out in the Balance Sheet are available for the payment of debts generally, and the present system of stating Balance Sheets tends to foster this belief.

In the same way, when creditors are partly secured, the amount due to these creditors should not be set out in the total column on the debtor side of the Balance Sheet, but should be entered short, and there should be deducted therefrom the value of the asset they hold as security, bringing out the balance amongst the real liabilities of the company to be satisfied out of the free assets. As a consequence, the assets hypothecated to these partly secured creditors would be removed from the creditor side of the Balance Sheet and not deceive shareholders and creditors into believing they are available for payment of ordinary unsecured debts.

It must not be understood from these remarks that I am in any way advocating that the Balance Sheet of a company should be prepared on the footing of what is known as a "statement of affairs." I am not suggesting any alteration in the value to be put on these assets different to what would appear in a Balance Sheet presented in the ordinary existing form, but I consider that if where a Balance Sheet can be prepared on the lines indicated as regards secured and partly secured creditors it must be, from a professional accountant's point of view, stated in a much clearer manner than one prepared on the method now prevailing, and certainly in a form which can be better understood by persons who are asked to give credit to a company, as also to the shareholders.

The great difficulty in the way of carrying out this idea at once presents itself when stating a Balance Sheet of a company where a general floating charge over all the assets has been given to debenture-holders. Under such circumstances it appears to me that the ordinary form of merely setting out the total liabilities on the one side and the total assets on the other must continue, with a note placed against each asset calling attention to the fact that it is subject to this floating charge. If this be done, unsecured creditors, as well as the shareholders, will clearly see the financial position.

Another item in a Balance Sheet in connection with the

share capital which, in my opinion, ought to be much more clearly stated than is the present custom, is "Calls in arrear." From the moment a call upon a shareholder becomes payable it is as much a debt due from the shareholder as is a debt due from a customer of a company for goods sold; and consequently any calls in arrear at the date of the Balance Sheet should be inserted under a separate heading on the credit side of the Balance Sheet, and not be dealt with, as is the present custom, under the heading of share capital on the debtor side. Any amount deducted on the credit side of a Balance Sheet from the balances due from debtors in respect of an allowance for loss likely to arise on the realisation of these debts should, as a matter of clear stating, be shown as a deduction on the face of the Balance Sheet, as should any depreciation on each of the assets—such as on leaseholds, plant and machinery, and investments. It is also advisable, as a matter of clear stating, that the investments on the credit side of a Balance Sheet should be divided into groups, and for this purpose the division given in the second schedule to the form of annual accounts prescribed by the Life Assurance Companies Act, 1870, might be followed. The special heading "Loans (if any) made upon personal security," which occurs in this schedule, might well be made compulsory in the Balance Sheet of every company.

While referring to the Life Assurance Companies Act, 1870, although not bearing on the Balance Sheet, to which statement this paper is practically confined, I think most Chartered Accountants will agree with me that the first schedule to the form of annual accounts prescribed by the Act would be very much improved if the first entry on the income side—namely, the "amount of funds at the beginning of the year," and the last entry on the expenditure side, "amount of funds at the end of the year as per second schedule," were eliminated and placed at the foot of the account, forming a second part. If this were done the result of the business of the year would be clearly shown, which at present is not done, and the balance would be brought down as a separate item into this second part which I have suggested.

When a company has carried on business at a loss it is very seldom the custom for the adverse balance to be clearly stated on the face of the Balance Sheet. There frequently appears on the credit side of a Balance Sheet an item such as "Profit and Loss—Balance brought forward," or "Balance transferred from Profit and Loss Account," or some such heading, whereas there ought clearly to be set out "Loss on trading for the year as per Profit and Loss Account," or "Loss to date on the Trading," or words to the same effect.

I have already referred to the practice of describing the balance at the bankers as "cash at the bankers," and need not make any further reference thereto.

The method of arriving at the value placed on investments and stock-in-trade should be clearly set out on the face of the Balance Sheet under the heading of these assets, and under no circumstances should the expression "cost price" be placed against either without any further observation should the value at the date of the Balance Sheet be known to be lower in amount.

In these remarks of mine with reference to suggested improvements in connection with the clear stating of a Balance Sheet, it must, of course, be understood that I am referring to those companies the shareholders of which would not be injured in any way by a full publication of facts connected with the business carried on by their company.

The facilities which joint-stock enterprise afford have during the last few years been extended so as to embrace classes of enterprise which were certainly never contemplated when the Companies Act, 1862, was considered in Parliament, and became law. Many companies are now in existence whose directors claim, and very properly claim, that it is very undesirable to give full information to shareholders, on the ground that such information could not necessarily be confined to shareholders, but would become known to their competitors in trade. It is beside the mark to say now that enterprises of this nature are not suitable for public companies, and that if owned by public companies the directors must submit to certain regulations in connection with the published accounts. I think it may be taken that legislation will not attempt to prescribe what business may, or may not, be managed by a company, and if the directors of a company decide that it is inexpedient in the interests of the shareholders to publish Profit and Loss Accounts, or even full Balance Sheets, and the shareholders support them in that view, they will not be interfered with. Legislation nowadays is necessarily conducted on much broader lines than in times gone by, and any attempt to curtail the freedom of action by directors, who are supported by shareholders in connection with the published accounts of companies, would necessarily tend to place such of our commerce as may be conducted by these companies at a disadvantage with foreign competitors. This is not likely to happen, but at the same time, when shareholders at annual meetings are refused by directors information, on the grounds just referred to, they should not accept this refusal without satisfying themselves there is a real danger in the publication of the information.

The question of whether or no Secret Reserves are justifiable is one which always provokes much controversy. Speaking from the point of view of an auditor whose interests are to preserve and maintain a company in a sound position as long as possible, and whose interests in this respect are therefore identical with

those of shareholders who are investors in the company, I am strongly in favour of Secret Reserves. It is not for directors or auditors to specially consider the interests of shareholders who hold shares for a short period merely for the purpose of getting as much as they can out of the company before they transfer their interest, or in other words, although not necessarily in an invidious sense, are merely gamblers in the company's shares. Secret reserves, when made honestly by a board of directors for the purpose of maintaining a company as a permanent institution, are of the greatest possible protection to the shareholders.

It is true that in the last few months one of the English Judges specially versed in company law has decided that resolutions passed by a company to alter the articles of association by inserting a provision that the directors may set aside out of profits (without disclosing the fact) sums to form an internal reserve fund, that these sums need not be shown in or disclosed in the Balance Sheet, and that no information need be given to the shareholders as to their amount, investment, or application; that the directors may invest this reserve as they think fit, without being liable for loss in consequence of such investment; that they may apply it for any purposes which they consider would advance the interest of the company; and that, while the particulars as to this fund were to be disclosed to the auditors, it was to be the auditors' duty not to disclose any information with regard to it to the shareholders or otherwise, are *ultra vires* as being inconsistent with the obligation imposed upon auditors by Section 23 of the Companies Act, 1900.

In the face of this decision, which seems so clear as a pure matter of law that it is surprising that anyone could have expected any other, I still maintain that, as a matter of business prudence, secret reserves are desirable in the interests of shareholders and creditors, but always coupled with the stipulation that a reserve of this kind must be created with a *bonâ fide* intention, and not for the purpose of any Stock Exchange transactions or with any improper intent.

I trust that in the remarks I have addressed to you I have carried out the intention of your committee when they forwarded me the title of the paper they wished me to read to you this evening. I feel that many of my remarks approach somewhat more of the theoretical than the practical, but I trust you will think the subjects touched upon are all worth ventilation. The main object of an address to students is not solely to lay down hard and fast lines of conduct, but to give them the benefit of the lecturer's experience acquired by him in the practice of the profession they are hoping to enter, and afford them subjects for thought, and perhaps for subsequent discussion.

Personal.

Messrs. Moores, Carson & Watson, Chartered Accountants and Stockbrokers, 209 West George Street, Glasgow, have assumed as partners Mr. D. S. Carson, Junr., C.A. (son of their present partner), and Mr. William F. Andrew, C.A., both of whom have been admitted to membership of the Stock Exchange. The business will be continued under the present firm name.

Mr. Richard Alfred Murdoch has retired as at 12th October from the firm of Auld & MacEwan, Accountants and Stockbrokers, 24 St. Vincent Place, Glasgow. Mr. Andrew MacEwan and Mr. William Auld, C.A., the remaining partners, will continue the business under the same firm name at the same address, and will discharge the liabilities. Mr. Richard A. Murdoch will carry on business as an accountant and stockbroker, in his own name and for his own behoof, at 1 Gresham Chambers, 45 West Nile Street, Glasgow.

Messrs. John Mann & Son announce that they have assumed as a partner Mr. Harold Godfrey Judd, Chartered Accountant.

Personal.

MESSRS. HERBERT VIGERS & WALL announce that they have removed to 36 & 37 King Street, Cheapside, London, E.C., not Queen Street, as stated in ours of the 13th inst.

Bank Rate of Discount.

April 5th 1906	..	..	..	..	..	..	3½%
May 4th	..	..	..	..	..	..	4%
June 21st	..	..	..	..	..	..	3½%
Sept. 13th	..	..	..	..	..	..	4%
Oct. 11th	..	..	..	..	..	..	5%
Oct. 19th	..	..	..	..	..	..	6%

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The Accountant

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Extract from *Auditing*, by LAWRENCE R. DICKSEE, F.C.A.
(Page 190)

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Leading Articles.

The Incorporated Accountants' Congress.—II.

THE paper read by Mr. HARRY L. PRICE, Vice-President, on Bankruptcy Reform, deals with a subject which has already received its due share of attention in these columns and is now being considered by a Departmental Committee, whose report we shall have to comment upon in due course. We do not, therefore, propose to deal with

this paper at length at the present time; but, inasmuch as it refers to several points of considerable importance, some comment seems desirable.

The lecturer points out very properly that in adequately dealing with this problem of commercial insolvency the Legislature has not only to safeguard the respective rights of creditors to so manage their affairs that the largest possible dividend may be recovered from the estate of an insolvent debtor, but must see that the rights of the community are as far as possible protected against loss arising from the insolvency of their debtors. To these conflicting rights, which are responsible for the wide fluctuations of legislative endeavour in the past, may be added a third—namely, the equitable rights of the debtor who has suffered financial shipwreck to be allowed to escape, on condition that he surrenders all his property—provided, of course, that he has committed no crime. Each one of these three aspects might be readily catered for if it stood alone. It is their essentially antagonistic claims that make the difficulty in connection with all matters of bankruptcy procedure.

Undoubtedly the aim of the Acts of 1883 and 1890 was to discourage an undesirable amount of irresponsibility on the part of speculative debtors by refusing, or suspending, their discharge in all cases of bad failures. It has been abundantly shown, however, that these provisions, while intended in the interests of creditors and of the community generally, have not always had the desired effect. The small percentage of bankrupts who apply for their discharge and the very large number of undischarged bankrupts at present resident in this country (estimated at no less than fifty thousand) shows that, in the vast majority of

cases at least, non-discharge causes no practical inconvenience to the debtor. The persons who are inconvenienced are those who may give credit to the undischarged bankrupt without a knowledge of the facts, and who under the existing law are deprived of all possibility of recovering anything out of the second bankruptcy until the creditors in the first failure have received twenty shillings in the £ and 4 per cent. interest on their claims. This in effect means that they stand to gain nothing by proceeding against an undischarged bankrupt, and thus these unscrupulous debtors become for all practical purposes bankrupt-proof—a position which affords them many substantial advantages as compared with a mere discharge. They are, of course, liable to be proceeded against for obtaining credit for £20 or more from any one person, but this is a liability that does not seriously disturb them in the majority of cases, in that it is extremely rare for conviction to follow such a prosecution. We do not agree with Mr. PRICE that it would be desirable to compel undischarged bankrupts to clearly state their position upon every document issued by them, or connected even remotely with the obtaining of credit, for we consider such a provision would be impracticable. What we think is required to meet the justice of cases of this description is that in the event of more than one bankruptcy the available assets should be distributed in the first instance among the creditors in the latest bankruptcy, and so on backwards; instead of, as under the existing procedure, the creditors in the first failure having the prior claim. As against the debtor they may equitably claim after-acquired property so long as the bankrupt remains undischarged, but with regard to creditors in successive bankruptcies the

equities are, we think, entirely the other way about.

On the subject of private arrangements Mr. PRICE has not apparently very much to say that is new. It occurs to us, however, to mention here a point that seems to have been hitherto overlooked—namely, the position of those who have become creditors of a debtor after knowledge of an act of bankruptcy. At the present time they are debarred from proving against the estate, and the practical effect of this seems to be that, in the event of the assets subsequently realising more than twenty shillings in the pound and interest, the surplus is handed back to the bankrupt, and the creditors having dealings with the bankrupt after knowledge of an act of bankruptcy are left entirely out in the cold. This would be sufficiently inequitable in ordinary commercial cases, but it falls exceptionally hardly upon members of the profession who may have acted as trustees under deeds of assignment, and, as such, have been afterwards called upon to account to trustees in subsequent bankruptcies for moneys received by them, without being allowed to take credit for payments properly made in the ordinary course. However opinions may be divided as to the right of a trustee in bankruptcy to treat the trustee under a deed of arrangement as a trespasser, there can, it seems to us, be no question as to the equitable right of that trustee to be paid his out-of-pockets and reasonable remuneration out of any surplus that may be available after all claims in the bankruptcy have been paid in full.

In the course of the discussion that followed this paper Mr. C. F. SHARP suggested that in connection with deeds of arrangement all solicitors' costs should be taxed. Such taxa-

tion would doubtless relieve the trustee from the discharge of an unpleasant duty, but it is extremely open to question whether the costs would suffer any diminution in consequence. So long as a solicitor employs a competent costs clerk, we have not observed that he experiences any difficulty in securing, upon taxation, a very ample payment for services rendered by him to trustees in bankruptcy; indeed, there are, we believe, few branches of solicitors' work that are more lucrative. Thus taxation *per se* can hardly be said to produce economy.

Mr. H. R. SIBSON gave utterance to a view which is, we believe, widely entertained among creditors, but is, for all that, absolutely untenable—namely, that trade creditors, as such, have a right to be considered before cash creditors. Prior to the passing of the Money-lending Act there were no doubt good reasons for assuming that the claims of money-lenders included an enormous loading for interest, and that it was therefore quite conceivable for a money-lender to take (say) five shillings in the pound on his claim, and yet make a profit. All that has now been altered, and it must be borne in mind not merely that money borrowed from money-lenders at a quite reasonable rate of interest now generally finds its way into trade creditors' pockets, and thus reduces their losses, but further that the terms "cash creditors" and "money-lenders" are by no means interchangeable. In a great many cases members of a debtor's family have advanced him money at little or no interest to enable him to carry on business. Such advances are all to the advantage of trade creditors, and there is certainly no reason why a man who loses hard cash through the insolvency of a debtor should be regarded as less deserving of sympathy or consideration than one who

merely loses goods which have been charged up to the debtor at an inflated price to cover a trading profit.

It may, of course, be said, and oftentimes very properly, that cash creditors' claims require very careful investigation; but the trustee who desires to perform his duty would be well-advised to make equally careful inquiry into the claims of trade creditors, for cases are by no means so infrequent as they should be in which, upon the eve of bankruptcy, a debtor has been induced to return large parcels of goods to a favoured creditor in order to reduce his loss. It is important, therefore, that, by whomsoever appointed, the trustee should occupy such a position as will enable him to act independently, and without fear or favour; and the very common practice among trade creditors of supporting the nominee of the largest trade creditor only secures this end if that nominee be a professional accountant whose position and repute are beyond question.

At the banquet held at the Whitehall Rooms on the conclusion of the Conference, when the President, Mr. W. G. RAYNER, again presided, there were a large number of influential guests, a complete list of which appeared in our issue of the 13th ult. We are very glad to observe that these included the Presidents of the Institute of Chartered Accountants and of the Edinburgh Chartered Society—facts which speak for themselves, as showing that the Society of Accountants and Auditors, having now come into its majority, has succeeded in securing a measure of recognition from the older Societies which places it in a more assured position, which can hardly fail to pave the way for some reasonable scheme of registration for the profession as a whole in the near future. We cannot, however, too often draw attention

to the fact that there are other still younger associations of accountants now in the field which, if inconsiderable in themselves, yet place difficulties in the way of any desirable scheme of registration; and the longer the problem is shelved, the greater in the nature of things will these difficulties become, as these numerous Societies multiply and their membership increases.

The Interpretation of Legal Decisions.

THE decision of the Court of Appeal in *In re Gorringe* (1906, 2 Ch. 341), dealing as it does with the construction of wills and the ascertainment of classes of beneficiaries where some of the children of the testator are already dead at the date of the will, is not one that has any very direct or special interest for our readers. They are mostly concerned with decisions affecting the estates of deceased persons as to matters of account arising thereout; but the utterances of Lord Justice ROMER (who dissented from the judgment of the majority, consisting of VAUGHAN-WILLIAMS and MOULTON, L.J.J.) give rise to some reflections that cannot fail to be of considerable value to the intelligent laymen who may from time to time seek guidance from the judgments delivered in past cases.

As has already been indicated, the point before the Courts in this case was entirely one as to the construction of the will in question. And although in connection with wills it is the true construction of the words employed that of necessity has to prevail, rather than the intention of the testator (inasmuch as naturally no direct evidence is available on the subject of his intentions), the considerations that Lord Justice ROMER applied are at least equally applicable

to the layman who is desirous of deducing general principles from legal decisions, in that he also has no opportunity, other than that to be derived from the report before him, of ascertaining what was really passing in the minds of those whose views or intentions he is desirous of ascertaining. His Lordship's recipe for the construction of such documents is to read the document itself carefully before referring to any authorities, and to see whether, apart from those authorities, the meaning of the compiler of the document can be ascertained. "Of course," his Lordship added, "I must bring in aid all those rules of law and construction which the authorities have laid down; but if, in doing so, and construing the will for myself, I come to one conclusion, I do not think it a wise or a right thing to attempt to construe one will—a will like this—by the determination put by a Judge on another will, merely because the other will is something like the present."

From this we may gather that where words suggest an obvious and reasonable meaning taken in themselves, that natural meaning is to be preferred rather than an artificial or purely technical meaning that may be suggested by a study of previous authorities. And if the document that it has been sought to construe has been prepared by a layman, there is, no doubt, much to be said in favour of this method of procedure, in that the layman will, in the nature of things, in all probability be ignorant of the precise effect of all recorded decisions bearing upon the matter, and therefore most likely to express his views in natural and non-technical form. Another reason that might be advanced in favour of Lord Justice ROMER's *modus operandi* is that, even in such a matter as the construction of wills, where the meaning of the words is supposed to prevail

over the intention of the testator, and *a fortiori* in the construction of documents that are more liberally construed by the Courts, outside circumstances are not altogether without their effect upon the minds of the Judges; as, for instance, in *In re Gorringe*, where his Lordship, referring to the decision of Vice-Chancellor KINDERSLEY in *Loring v. Thomas*, referred to the disinclination of the Courts to exclude the child of a deceased child. In the majority of cases there is a more or less marked disinclination upon the part of the Courts to decide in one particular direction, if only they can find a good reason for holding the contrary. But this unacknowledged bias may be quite inoperative in another case to which it is sought to apply the same decision, and it is, we think, due to this circumstance that the layman of average intelligence and deductive powers finds the greatest difficulty in foretelling what the decision of the Courts will be in any case from a careful study of the authorities. The Courts allow for this unacknowledged bias, and decide accordingly if their previous decisions—*prima facie* given under almost identical conditions—are or are not to apply, whereas the layman, particularly if he is working from a condensed report, is unable to make the same allowance. For instance, in connection with apparently conflicting decisions of the Courts with regard to the question of what are divisible profits, we think it would be found that what we have called the "unacknowledged bias" is in all cases more or less evident, and takes the form of a marked disinclination to interfere with the existing condition of affairs unless such interference appears to be necessary in the public interest. And it is to this disinclination we attribute the conflicting and often unsound reasons that have been put

forward in support of the judgment given—as, for instance, in the case of *Bond v. The Barrow Hematite Steel Company, Lim.*, where Mr. (now Lord) Justice FARWELL held that a mine owned by a smelting company was a floating asset. If upon that ground alone anyone were to assume that a mine owned by a smelting company, or any similar company, was in *all* cases to be regarded as a floating asset, and to be treated in accounts accordingly, he would speedily arrive at conclusions in which the Courts, however inconsistent it might appear, would not uphold him, because the unacknowledged bias to regard them as floating assets would be absent.

But, to return to the decision in *In re Gorringe*, while we regard Lord Justice ROMER'S view as most helpful for general purposes, we cannot but think that in this particular instance he was in the wrong as well as in the minority. Assuming the will in question to have been drawn up by a lawyer (which from the report before us seems an entirely reasonable assumption), we very much question whether it is ever wise or right to invariably adopt the natural as opposed to the technical construction of the sentences employed. Wills drawn by lawyers are, it seems to us, rarely (if ever) constructed of natural sentences. They are rather a collection of phrases, the exact meaning of which has been stereotyped by past decisions; and, that being so, a sentence the meaning of which has been already decided years since by a learned Vice-Chancellor may, we think, both wisely and rightly be regarded under normal circumstances as having been deliberately employed *because* its meaning has been judicially interpreted as being the precise meaning intended to be conveyed by the

testator. So long as precedents are to be regarded as authorities it is, we think, difficult to arrive at any other conclusion than that where a lawyer has been employed he is acquainted, at all events, with all decisions delivered up to the date of his employment, and has constructed whatever documents he may be responsible for accordingly. This attitude, which apparently commended itself to the majority of the Court of Appeal, is, we think, the only safe one to employ where a clear understanding of the authorities can be reasonably imputed; but, of course, in interpreting the words employed by laymen no such assumption can with safety be made, and in their case the natural rather than the technical interpretation is more likely to be correct. *Per contra*, however, when a layman attempts to construe the meaning of a judicial judgment, he must remember that it has to be interpreted according to the technical rather than the natural formulæ.

The Form of Company Accounts.

THE letter signed "Investor," which appeared in our last issue, raises a question of some interest which, if we remember rightly, has already been dealt with in these columns, although perhaps not very recently. Shortly stated, the points raised by our correspondent may be divided under two headings:—Do the accounts which he reproduces exhibit a true and correct view of the company's affairs? and, if not, what is the duty of the auditor under these or similar circumstances? Assuming the accuracy of the statements of fact put forward, there can, we think, be no doubt that it is incorrect to debit expenditure in connection with the repayment of debentures to Revenue

Account. The balance of Revenue Account after making those charges must of necessity be something correspondingly less than the true net profit, and the fact that the balance is described not as Net Profit, but as "Balance carried to Balance Sheet," does not seem to help matters, being in point of fact a complete misstatement of facts. The balance of the Revenue Account is never carried to the Balance Sheet, but is carried to the Appropriation Account, where it stands as a balance, and for that reason, like all other outstanding balances, is incorporated in the Balance Sheet; but no Ledger balance is ever carried to the Balance Sheet under the English system of bookkeeping. The employment of this incorrect expression, of course, to some extent avoids the necessity of defining what this hybrid balance is supposed to be, but we do not suppose that this incorrect nomenclature has been employed for that reason, as it is quite a common expression, albeit most inaccurate. On the facts stated by our correspondent undoubtedly the balance to the credit of Revenue for the current year is considerably more than £406.

Turning to the Balance Sheet, it seems equally clear that the debit balance on Revenue Account of £31,402 is wrong, having been arrived at by debiting Revenue at various times with £80,878 as Debenture Sinking Fund. A Sinking Fund presupposes the existence of investments outside the business in the process of being accumulated at compound interest, whereas no such investments exist in this case. We gather that the true facts are that debentures have been redeemed—whether under the terms of their issue or voluntarily—to the extent of £80,440. In the case of a company, assuming that there is no unnecessary working capital, debentures can only be redeemed either

as further shares are issued to provide the funds for redemption, by borrowing a corresponding amount elsewhere, or by setting aside and reserving net profits instead of dividing the same among the shareholders. Apparently, in the case under review the latter plan has been adopted so far as the profits sufficed, but the undivided profits have been insufficient to pay for the redeemed debentures to the extent of £31,402. It thus seems to be quite incorrect to suggest in any form whatever that £80,878 has been set aside out of profits to redeem debentures, which is the statement suggested by the expression "Debenture Sinking Fund," if it means anything at all.

How the £49,000 odd has been provided it is impossible to say on the facts submitted to us, but presumably part of it has been borrowed elsewhere, and is included in the item "Creditors, £35,467," and part by depleting the working capital; or, for all we know to the contrary, there may have been subsequent issues of capital to account for the balance. But, however that may be, the impression we gather from the Balance Sheet submitted is that there are undivided profits to the extent of £49,476; and as this is not clearly shown upon the face of the Balance Sheet, it seems to us to follow that this Balance Sheet fails to exhibit a true and correct view of the company's affairs. Doubtless the auditors have drawn attention to this fact in their report to the shareholders, which is not before us; and, if so, they have, we think, done all that is necessary in the discharge of their statutory duty. As we read Section 23 of the Companies Act, 1900, it is not competent for an auditor to require a Balance Sheet to be amended before submission to the shareholders so as to disclose all that he may think necessary should be

disclosed. The Balance Sheet is the directors' Balance Sheet, and its form rests with them. The auditor's statutory certificate is confined to a mere statement as to whether all his requirements as auditor have been complied with, and in our view the word "requirements" must be interpreted as it is defined in Section 23.

The Annual Bankruptcy Report.

IN our issues of the 20th and 27th ult. we reproduced the Twenty-third General Annual Report of the President of the Board of Trade under Section 131 of the Bankruptcy Act, 1883. This Report, like that in company liquidation, contains nothing of a sensational character, and is indeed chiefly remarkable for the changes of *personnel* among the officials, Mr. H. LLEWELLYN SMITH being now the Secretary of the Board of Trade, and Mr. WILLIAM EVANS the Inspector-General in Bankruptcy—both being, like the President of the Board of Trade, Welshmen. We should have thought, however, that Metropolitan Official Receivers were far better acquainted with High Court practice than one chosen as Inspector-General from the Chester and North Wales district.

It is doubtless owing to the fact that the Departmental Committee on Bankruptcy Reform has not yet reported that the Report before us is so colourless. Not unnaturally the Department is desirous of ascertaining the nature of the Committee's views before committing itself to any very definite expression of opinion on the matter. We find, however, that in the meantime the old fiction is preserved of including as receipts of the Department dividends on cancelled stock which

have never been received, and that by the aid of this device an apparent surplus of £3,914 is shown upon the year's working. Only in the years 1890, 1891, and 1896 has the position been less favourable, the true fact being that the Department costs the nation just upon £30,000 per annum, and has upon an average cost £28,000 per annum since the 1883 Act came into force. These figures would be largely exceeded were it not for the interest earned by the Department on creditors' moneys lodged in the Bank of England. The amount of such moneys is not clearly shown by the Report, but the fact that during the past six years the payments in have averaged 1½ millions sterling undoubtedly suggests that the accumulated balance must be very considerable.

Turning to the Inspector-General's Report, it is, perhaps, a little surprising to find that the total amount of insolvency for the year under review shows some reduction. Taking bankruptcies and deeds of arrangement together, there are 28 less cases, involving an estimated loss to creditors of £1,706,692 less than in 1904. There is, however, an actual increase of 218 in the number of receiving orders and administration orders, and a reduction of 246 in the number of deeds of arrangement registered. The explanation of these figures is, we take it, not that bankruptcy is becoming increasingly popular, but that a larger proportion of the failures do not show a sufficient proportion of assets to make it worth while for the creditors to try and keep them out of bankruptcy. Although the bankruptcies for 1905 were 4,764, as against 4,546 in the previous year, the assets were estimated by the debtors at £459,967 less. There was, however, an approximately corresponding reduction in the amount of aggregate liabilities, so that the

general conclusion to be drawn is that there has been an increase in the number of small failures and fraudulent failures, but a decrease in the number of failures suitable for arrangement under the 1887 Act. It should be added, however, that although the number of deeds of arrangement registered in 1905 was 246 less than in 1904, it is greater than the number registered in any of the other years recorded in the Table now before us. An interesting feature of this Report is the trifling number of failures recorded in Scotland and Ireland, which figures are now given for the first time. Of course, a very much larger percentage of the population of both Scotland and Ireland is engaged in occupations which would make financial failure practically inexcusable; but, after every allowance has been made under that heading, the conclusion seems irresistible that a certain class of person residing in England and Wales regards bankruptcy as a luxury, and even, indirectly, as a sort of livelihood.

Under the heading of Prosecutions it is noted that ten bankrupts were prosecuted by the Treasury during the year under review, and in nine cases the offence was that of having received moneys on behalf of clients which they were unable to subsequently hand over. The figures are not very large, but they undoubtedly emphasise the importance of all trust moneys being paid into a separate banking account, and never, even for one moment, being mixed up with the moneys of the agent. Of course, so long as the agent is solvent, and is able to pay over upon demand what he is accountable for as a trustee, the objections to the single banking account are not obvious; but, so far as accountants are concerned, it would be well for them never to overlook the

fact that although their calling is not in itself a speculative one, it is one which imposes upon them an altogether exceptional amount of personal responsibility for the deeds of others, and that thus, so long as they remain in active practice, unless they are persons of considerable wealth, there is always just the possibility that owing to an adverse judgment they may find themselves insolvent. Hence in their case the great importance of the second banking account. With regard to solicitors the case is certainly not so strong, as the liabilities of a solicitor are, comparatively speaking, inconsiderable. Still the Law Society, which undoubtedly is best able to judge, has very strongly recommended a second banking account for solicitors; and if it be necessary in their case, *a fortiori* is it essential in the case of an accountant.

With regard to the various statistical tables, we observe that the new Inspector-General adopts and endorses all the fallacies perpetrated by his predecessor — a state of affairs which suggests an indifference to the true facts. For our own part, we have a somewhat limited reverence for statistics as such; but a most rudimentary study of the science of statistics should suffice to convince anyone of the absolute absurdity of a statement to the effect that the cost of winding-up any selected number of bankruptcies can by any possibility amount to 127·97 per cent. of the assets realised. It is a physical impossibility to devote more than 100 per cent. of anything to any purpose or purposes; and this same fallacy underlies the whole of Table XIII. in that if it means anything at all it certainly suggests that the deficiencies of any one estate may be defrayed by a levy upon all other estates belonging to the same arbitrary class.

Lest, however, it should be thought that our objection to Table XIII. is purely technical, we should like to point out that if it were desired to honestly compare the efficiency of official and non-official realisations, the proper course would obviously be to compare the dividend shown by the statement of affairs in each case with the dividends actually produced; and for such purposes all cases in which the statement of affairs disclosed practically no assets should be eliminated, for, as our readers will be well aware, non-official trustees frequently spend considerable sums out of their own pockets in the unsuccessful endeavour to secure possession of assets which have been concealed by fraudulent bankrupts. The money so expended should be regarded as entirely creditable to non-official trusteeships, whereas in the form employed for these official statistics it is directly to the disadvantage of non-official trusteeships, as compared with those undertaken by Official Receivers.

Weekly Notes.

Kynochs, Lim., and the Metric System.

We mentioned recently that Messrs. Kynochs, Lim., had decided to introduce without delay the metric system of weights and measures into all their works. It is reported that all complicated English standards are being done away with, and the French system adopted in its entirety, with the metre as the unit. With regard to the calculation of costs, however, the pound sterling is being adopted as the unit, and is to be worked up to four places of decimals. In an interview, Mr. Arthur Chamberlain is reported to have said that the metric system had been made legal but permissive, and it had been expected that Parliament would make it compulsory, giving two or three years' grace, at the end of which time only metric weights and measures would be legal. In the absence, however, of any action by Parliament, the directors of his company felt it was useless to wait any longer, and set about giving an example themselves. It is understood that, so far as

English catalogues are concerned, the old system of notation will still be used, but as regards the large foreign trade done by the company the change will doubtless be very much appreciated. It will be very interesting to hear what measure of success results from this courageous experiment. During the interregnum it seems to us that the difficulties must be enormous, and that the most straightforward measurements and the simplest sums of money will have almost invariably to be expressed in three or four places of decimals. At a later stage, doubtless, dimensions and weights can in many cases be modified to enable quantities more easily expressed to be generally used; but while Kynochs work single-handed the chief difficulty in connection with its decimal money will, we think, be found in the reconciliation of its bank Pass Book with its Cash Book, and in the conversion of every single payment into pounds, shillings, and pence before a cheque can be drawn therefor, and in the conversion into decimal money of all sums received from customers. So far as wages are concerned, doubtless calculations can be simplified by modifying the existing arrangements as to employees' pay, but dealings with the outside world, for the most part at least, must continue to be upon the old basis—a circumstance which will practically involve many records being kept in duplicate. While fully appreciating the difficulties that lie before this company, however, we do not wish to throw doubt upon the expediency of the new departure. Doubtless, the disadvantages as well as the advantages have been carefully calculated in advance. None the less, however, shall we be interested to hear how the new scheme works, and, of course, it is particularly the problems in connection with the alteration of coinage that raise points on which accountants would be glad to have such information as experience may be able to give at a later stage.

Debt-Collecting Solicitors.

A somewhat amusing controversy has been going on of late between *The Financial News* and *Law Notes* on the subject of the propriety of a solicitor applying for payment of a debt due to his client claiming at the same time payment of his charges in connection with the application. Our legal contemporary suggests that if the debtor should by any chance pay the solicitor's charges, the solicitor's client benefits, and that therefore the application is justified, whereas *The Financial News* inquires

why a solicitor alone of all men in the community should be allowed to obtain money by knowingly representing a certain liability to exist when he knows that it does not exist. There can be little doubt that no one would ever pay a solicitor's charges for applying for a debt save under the mistaken impression that, like the costs of a summons, they must be paid to avoid further proceedings; and, that being so, the mere fact that the client benefits rather than the solicitor strikes us as being a weak argument, more especially when it is borne in mind that in many cases the amount that the client would have paid would by arrangement have been very much less than the amount charged to the debtor. The Law Society is very properly active in preventing unqualified persons from posing as solicitors and applying to debtors for the payment of costs that are not owing by them; but, like *The Financial News*, we must admit that we think it would do well to sometimes look a little nearer home, and to discourage its members from threatening legal proceedings unless an entirely unjustifiable claim be met by prompt payment.

Motor Omnibuses and Depreciation. Some interesting statements were made by the chairman, at the recent meeting of the London Motor Omnibus Company, Lim., concerning the difficult question of depreciation as it affects motor vehicles of a large type. The average cost of a motor omnibus was said to be £1,000, including garage accommodation, and the company's engineers had reported that even the oldest of the 'buses were good for a life of ten years. The board had, however, decided, after allowing for all repairs and maintenance to be charged to revenue, to write off the whole of their stock in five years, or in the reported words of the chairman, "in less than one-half of the above-mentioned engineers' estimate of the life of the 'bus in running." It may, therefore, be assumed that the provision for depreciation is on a 20 per cent. basis. This will doubtless be noted by those among our readers who may be interested in this still young and untried industry.

Form of Notice by Dissentient Shareholders. A shareholder in a limited company which is undergoing the process of reconstruction made up his mind that he would not join the scheme, and accordingly wrote to the liquidator as follows:—

"I am not intending to join in the reconstruction of _____ Company, Lim., and as I note that the resolutions to reconstruct, &c., were confirmed on the 4th inst., I wish to give you notice hereby of my dissent, and to request you to dispose of my proportion of the assets of the old company and remit the proceeds to me."

This letter was replied to by the solicitors to the liquidator in the following terms:—

"The liquidator has handed us your letter with instructions to deal therewith. We have advised him that your letter does not constitute a valid notice of dissent, and that he should treat you as a dissentient shareholder."

On writing again to the solicitors to ask upon what grounds they had advised the liquidator that the notice was not valid, the following explanation was afforded:—

"The Companies Act, 1862, provides that a dissentient shareholder's notice must state not merely that he dissents, but that he dissents and requires the liquidator to adopt one of the two alternative courses mentioned in the Act.

"Your letter does not, as provided by the Act, give to the liquidator the choice of the two alternatives, but merely requests that he shall adopt one of them."

A financial contemporary in commenting upon the matter says that, while this is doubtless legally sound, it is hard measure, and dissentients from future reconstructions should note what care and nicety is required from them. Subsequently a correspondent provides the following form of notice:—

"In the matter of the Companies Act, 1862, and in the matter of _____ Company, Lim.

To the Liquidator of the above-named company.

Take notice that I dissent from the special resolutions of the company passed and confirmed at general meetings thereof held respectively on _____ and I hereby require you either to abstain from carrying such resolutions into effect or to purchase the interest in the said company held by me at a price to be determined in accordance with Section 162 of the above-mentioned Act.

Dated _____ Signed _____

For the benefit of those readers whose recollection of the Companies Act, 1862, may be short, we may say that the point arises on the interpretation to be placed on Section 161 of that Act.

The State of Legal Business. The Michaelmas Sittings, which opened on the 24th ult., showed a greater accumulation of arrears than has existed for

some little time past. In the King's Bench Division 1,058 cases are awaiting trial, as against 962 in the previous year—indeed, one has to go back to 1897 to find so heavy a list as that which now faces the Common Law Judges. In the Chancery Division, although there are but 336 causes on the list, this represents an increase of 12, showing that even this Department is not keeping up with its work; while in the Court of Appeal there are 366 cases awaiting trial, against 303 in 1905. Not since 1902 has the list been so heavy. Taking all cases together the total is now 2,220, as against 2,069 in 1905. It is ten years since the aggregate arrears stood at anything like their present figure, and it is difficult to say whether the congestion in the King's Bench Division or in the Court of Appeal is the more serious.

How "Shops" are Made.

The directors of a certain limited company recently addressed a circular to the shareholders in which it was stated that the board had some reason to believe that the shares of the company were the subject of attention on the part of certain outside brokers. It was remarked that the directors had already experienced a great deal of trouble and annoyance from this source, and they therefore appealed to every shareholder who should be desirous of either buying or selling shares in the company not to deal with any outside broker, but to address themselves to the secretary of the company. The final paragraph of the circular in question ran as follows:—

"The directors constantly have applications for shares, and in the last transfers of shares that have been arranged by them the shares have changed hands at a considerable premium."

The Financial News, in discussing this circular, remarks that the circularising touting brokers have become a positive pest to investors, one favourite device of the less reputable of the fraternity being to offer shares in industrial companies "to close an executor's estate," at a price which on examination proves to be considerably higher than the market value. Our contemporary, however, points out that the suggestion that a shareholder in any company should not buy or sell shares in that company without previously notifying the directors is one that cannot possibly be endorsed. It is said that such a system would give the directors a knowledge which in the first place they ought not to possess,

and which, in the second place, might lead to very grave abuses of their position, for the power which the directors would be able to exert over the market might be exceedingly profitable. For instance, if a "rig" were in process, it would be a very easy matter for directors to tell all shareholders wishing to sell that there were no buyers, while they themselves were contentedly seizing the opportunity of unloading on the public; on the other hand, it would be quite possible for the board in favourable times to acquire a great number of shares without any material rise in the price. Of course, if the directors intend to act in bad faith, they will not have much difficulty in doing so, but since a shareholder can always deal through a member of the Stock Exchange instead of with an outside broker, there certainly does not seem any reason why he should put temptation in the way of the directors by playing, as it might prove to be, into the hands of the "shop."

The Income Tax Committee.

We understand that the Income Tax Committee, presided over by Sir Chas. Dilke, is now engaged upon its draft report, the settlement and publication of which may be expected very shortly. It has been stated, although we do not know upon what authority, that the Committee will probably express the view that a graduated income-tax is not impracticable.

American Trust Companies and Official Examinations.

Attention to the question of official examination of banking and trust companies has again been occasioned by the failure of the Real Estate Trust Company, of Philadelphia. The Banking Commissioner of Pennsylvania is reported to have admitted in an interview that while this particular trust company had filed its usual annual statements, no independent examination by the State officials had taken place for more than two and a half years. By way of explanation, the Commissioner, in whose discretion these examinations lie entirely, is said to have complained that the fifteen examiners which he was allowed under the recent amendment of the Pennsylvania Banking Law were not sufficient for the proper examination of the 1,650 State Banks and Trust Companies domiciled in that State. From all accounts it appears that the Real Estate Trust Company and its deceased President were so highly thought

of that the question of examination was shelved by the State officials until time should permit of its performance. A financial contemporary says that this incident only shows that too much reliance must not be placed upon official examination, and a sworn annual statement by a Chartered Accountant would possibly be more effective than examinations which are not compulsory in any fixed time. We need hardly say that we entirely agree with this expression of opinion.

Gold Reserves. In the course of an exceedingly interesting article on the 6 per cent. Bank Rate, in the columns of *The Financial Times*, Mr. W. R. Lawson complains that no practical step has ever been taken toward the provision of adequate gold reserves for the nine hundred millions of deposits held by the banks of the United Kingdom. It is said that the question must first of all turn on what they consider their deposits to be; if they are to be regarded as legal money placed in the banks' keeping, then those institutions must be prepared to repay legal money when called upon, but if they are to be regarded, says Mr. Lawson, as bank credits, which fully 90 per cent. of them in his opinion are, then only bank credits can be reclaimed. In a very luminous paragraph it is said that in the latter event the orthodox banking doctrine, that a golden sovereign can be demanded for every pound of bank deposits, would have to be given up. The suggestion is made that the position of the London banks would be completely protected if their depositors were informed that on and after a certain date deposits would be repayable in coin only up to £100 at a time, and that all payments over £100 might, at the option of the bank, be made in Clearing House notes. The matter is one that will well repay attention, and we commend Mr. Lawson's article to the notice of our readers.

The Importance of Vouchers. Following upon our Weekly Note under this heading of the 27th ult. we observe that upon that day Mr. Justice Jelf had before him an action brought by the administratrix of the late Henry Sutton against Mr. William Pea to recover £100 on a promissory note. The defendant alleged that he had paid the deceased two sums of £35 and £50 respectively in April last for which he took no receipts, and paid the balance into Court. In

delivering judgment his Lordship stated that in the case of a dead man's estate the burden of proof rested on the defendant, and that as that burden had not been discharged by him, he must enter judgment for the plaintiff for the amount claimed, with interest and costs.

Holding Companies and Depreciation.

At the 10th ordinary general meeting of the Consolidated Mines Selection Co., Lim., held on the 19th ult., the Chairman stated that the board had conferred with the auditors, Messrs. Deloitte, Plender, Griffiths & Co., as to the best way of dealing with the question of depreciation, and in accordance with their advice had decided to adopt the plan of upholding all securities at cost, no matter what their realisable value might be thought to be from time to time, but when there was a depreciation of aggregate value to clearly state upon the face of the accounts the extent of such depreciation. So long as the regulations of the company are such that profits may be distributed without providing for known depreciation of securities this would appear to be the most convenient course to pursue, but prudence would in all cases suggest that from time to time transfers should be made from Appropriation Account to a reserve for Depreciation Account to an extent sufficient to cover all known losses to date.

The Publication of Auditors' Certificates.

In its "Answers to Correspondents" column our contemporary *The Municipal Journal* has expressed the view that, strictly speaking, it is quite in order for an urban district council to publish its Balance Sheet without the auditor's certificate and signature, although no doubt the proper course would be to include such certificate at the foot of the Balance Sheet in the printed abstract. There can, of course, be no question as to the propriety of the latter part of our correspondent's advice, but with regard to the first part, although the point is not free from doubt, it may well be held that any form of certificate or report which an auditor is required by law to append to the foot of a Balance Sheet or other account becomes *ipso facto* incorporated therein; and if the matter ever came before the Courts we venture to think that they would, if possible, hold that the suppression of the auditor's report was a suppression of a part—and a somewhat material part—of the accounts themselves. Obviously, however,

the question is of only academic interest so long as councillors follow what our contemporary regards as the "proper" course.

**Income Tax
Surveyors and
Balance Sheets.**

The letter from our correspondent "O. P.," which we reproduced under the above heading in our last issue, is of interest as showing that the growing practice of requiring Balance Sheets to be produced in support of an income-tax return is not confined to limited companies. We think, however, that our readers will not be acting in the best interests of their clients if they throw any difficulties in the way of all such information as may be called for being produced. The question as to whether or not the Income Tax Acts give the Inland Revenue authorities power to require the production of Balance Sheets is a comparatively trifling matter. The Acts undoubtedly give them power to make such assessment as they may think fit, and, as we pointed out last week, failure or refusal to produce any particulars that have been asked for will not unnaturally be interpreted as a ground for supposing that something is being concealed, and that the return is wrong. Of course, before producing Balance Sheets it would be desirable for the accountant to point out to his client that he does not think the Inland Revenue authorities have power to compel its production; but at the same time he should, we think, point out the probable, and indeed natural, consequences of the refusal to produce. Unquestionably, if it comes to a matter of appeal, failure to produce Balance Sheets, if they are known to be in existence, will be interpreted most unfavourably.

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

Debenture-Holders and Apprentices.

(To the Editor of The Accountant.)

Sir,—Section 10 of the Judicature Act reads:—" . . . and in the winding-up of any company under "the Companies Acts, 1862 and 1867, whose assets may "prove insufficient for the payment of its debts and "liabilities and the costs of winding-up, the same rules

"shall prevail and be observed as to the respective "rights of secured and unsecured creditors, and as to "debts and liabilities provable, and as to the valuation "of annuities and future and contingent liabilities "respectively, as may be in force for the time being "under the law of bankruptcy. . . ."

Having settled the point in your issue of the 15th September, that the apprentices must rank as unsecured creditors, I suggest that the above quotation is sufficiently explicit to entitle such apprentices to payment in priority to other unsecured creditors in the winding-up.

Yours truly,

23rd October 1906.

G. F. C.

[We agree: the section quoted appears to settle the matter.—Ed. *Acct.*]

Municipal Audits and Officialism.

(To the Editor of The Accountant.)

SIR,—I do not know whether you noticed in the *Daily Mail* of the 25th inst. that Mr. John Burns informed the Mayor of East Ham (J. H. Bethell, Esq., M.P.) that the Government intends to bring in a measure compelling the auditing of the accounts of all municipal authorities by a Local Government Board Auditor.

This will strike seriously at the profession of accountants, and I shall be glad if you will make some reference to it in your next issue.

I have brought the matter to the notice of the Institute of Chartered Accountants.

Yours faithfully,

Cardiff, 30th October 1906.

C. E. DOVEY.

Annuities.

(To the Editor of The Accountant.)

SIR,—Possibly some of my professional brethren may be glad to have side by side the two distinct annuity formulæ, which give respectively the payments that will

"Repay a given sum with interest,"
and will

"Amount to, or provide, a given sum."
Therefore, I trouble you with same and examples thereof.

I admit to having myself floundered for some time between the two formulæ.

Yours,

26th October 1906.

RETIRED.

ANNUITIES.

The Annuity or Periodical Payment

That will "repay" a given sum and interest in a given number of payments or periods—

$$P = \frac{S \times i}{1 - \frac{1}{R^n}}$$

$$\text{Log. } P = \text{Log. } S + \text{Log. } i + n \text{ Log. } R \\ - \text{Log. } (R^n - 1)$$

What half-yearly payment will repay £735 and interest in three years at 4 per cent. per annum?

$$\text{Log. } (1.02^6 - 1) = \overline{1.1009217}$$

$$\text{A. C.} = 0.1990783$$

$$\text{Log. } 6 \text{ Log. } 1.02 = 0.0516010$$

$$\text{Log. } .02 = 2.3010300$$

$$\text{Log. } 735 = 2.8662873$$

$$\underline{2.1179966}$$

$$131.21 = \text{£}131 \text{ 4s. } 2\frac{1}{2}\text{d.}$$

That will "amount" to a given sum by a given number of payments or periods—

"Sinking Fund."

$$P = \frac{S \times i}{R^n - 1}$$

$$\text{Log. } P = \text{Log. } S + \text{Log. } i \\ - \text{Log. } (R^n - 1)$$

What half-yearly payment will "amount" to (or provide) £735 in three years at 4 per cent. per annum?

$$\text{Log. } (1.02^6 - 1) = \overline{1.1009217}$$

$$\text{A. C.} = 0.8990783$$

$$\text{Log. } .02 = 2.3010300$$

$$\text{Log. } 735 = 2.8662873$$

$$\underline{2.0663956}$$

$$116.519 = \text{£}116 \text{ 10s. } 4\frac{3}{4}\text{d.}$$

S = Sum to be repaid or provided for.

P = Payments or Annuity.

i = Interest on £1 for one period.

A = "Amount" at end of payments.

R = Amount of £1 at end of one period.

n = Number of payments or periods.

Check Figures.

(To the Editor of *The Accountant*.)

SIR,—The reticence of some who might be *prima facie* expected to give their views may be attributable, partly, to some of the considerations which I would ask you to allow me to suggest.

The first thought I had on reading Mr. Mitcheson's letter was, "why not 17 or 19"?

Then I thought of my "common denominator," always uncertain (in this regard), and varying with every line; and "to this complexion," with a *varying* numerator (!) must be come at last.

I have before me, say, a Ledger with a posting of 50 lines, among them is 17s. 9d., in a "Rent and Taxes" entry it may be. Going on, one finds, for a shop in the country, £46 17s. 7d. for "Goods," and £36 14s. 6d. for Silk, and so on. At foot of the page the total, may be £574 18s. 9d.

Can you not fancy the person posting this Ledger having to find the "check-figure" for these four sums?

The difficulty is no less if it is found for the Sales Book before transference to (or *copying in*) the Ledger.

The common denominator being 240 (pence) varies with the numerator every line (even or odd). Being a non-constant factor (the numerator in a marked degree) it is incapable of analysis.

Our acknowledgments ought to be expressed to Mr. Mitcheson and Mr. Crawford. The figures of the latter are *safe* up to a point; but I need say no more to your able calculators.

No; there is no "short cut" in this. The mixed denominations and the non-varying numerators are giants in the way.

And I think we do not need short cuts (they are for Admirable Crichtons only).

No doubt the decimal system, when we get it, will do much for us. It may even, but I doubt it, find a unit capable of being apportioned to our English land

measure! If "our clients" attain this they may criticise even Admirable Crichton.

Very faithfully yours,

DECIMAL.

[We reproduce this letter for the information of our readers, but we may say at once that we do not profess to know what it is all about. Perhaps someone versed in cryptograms can explain?—ED. *Acct.*]

(To the Editor of The Accountant.)

SIR,—Probably a little more information on the above will be acceptable. Seeing that the question has been considerably discussed in your columns since my first letter on the subject, Mr. Mitcheson states his doubts as to the 13 method catching postings to wrong accounts. It will do so, as I discovered a few weeks back when thinking the matter over, by the following method:—

Against folios of Ledger Accounts in index place check-figures of the folio numbers; when posting amounts from Day Book, &c., to Ledger, immediately on turning to Ledger Account folio in index write check-figure of Ledger folio against amount in Day Book; then when money amount has been posted to Ledger Account, enter folio in Day Book in the usual manner. The check of total of the folio column in Day Book should then agree with check of the total of folio check-figure column in same; if not, error somewhere. The whole point of this check lies in entering Ledger folio check-figure in Day Book immediately on referring to Ledger index and ordinary Ledger folio in Day Book after cash amount is posted. Whether it is worth the time occupied is a matter for consideration.

Another way of arriving at a quick check-figure is as follows:—

Take check of pounds, and divide it by 2, or multiply it by 7 as convenient, deduct check of pence from check of shillings, and add to check of pounds as above. Example:—

£14 10s. 3d., check of 14 is $1 \times 7 = 7$

$10 - 3 = 7 + 7 = 14$, $\frac{1}{2} \times 7 = 1$ (check-figure).

Add 13 to shillings where necessary.

None of your correspondents appear to mention how

they would deal with fractions. The check of $\frac{1}{2}$ is 10, of $\frac{1}{3}$ 7, of $\frac{1}{4}$ 4 or 30, and so on. To arrive at check of an amount containing fractions, add check of whole amount to check of fraction.

There are also several short cuts for arriving at checks of large amounts, and it will be noted that check of any number up to and including 12 is that number itself.

Mr. Norman will find that the system of "casting out the nines" will not check transpositions of figures, and that, all round, 13 is the most useful number.

Much can be said for the check-figure system as a check of arithmetical accuracy, but from the auditing point of view it is useless as a check against fraud, &c.

Yours faithfully,

30th October 1906.

H. T. L.

Bankruptcy Statistics.

(To the Editor of The Accountant.)

SIR,—As an instance of the manner in which the Board of Trade Returns of percentages of Costs are prepared, I enclose for your perusal the statement showing the realisation by an Official Receiver of a small bankruptcy estate. The bankrupt filed his own petition without legal assistance, and you will observe that no mention is made of the £5 stamp which undoubtedly was provided out of the assets. The inclusion of this item would have increased the costs by over $2\frac{1}{2}$ per cent.

Under a deed of arrangement, if the costs of preparing the deed, &c., are paid or provided for before its execution, and this item does not consequently appear in the trustee's annual account, the Board of Trade promptly address an inquiry to him as to their amount and how they were defrayed; upon receipt of this information undoubtedly the figures are at once included in their Return of percentages of Costs for comparison of the two systems. Is this playing the game? "What is sauce for the goose is sauce for the gander" is clearly an obsolete proverb with the Board of Trade.

You will observe that the "Deposit on Petition, £5," is carefully included so as to swell the realisation!

Yours faithfully,

30th October 1906.

Dr.

STATEMENT showing position of Estate at date of Application for Release.

Cr

	Estimated to produce per Debtor's Statement	Receipts		Payments
	£ s d	£ s d		£ s d
To Total Receipts from date of Receiving Order, viz.:—			By Court Fees	0 7 6
Deposit on Petition	..	5 0 0	Board of Trade and Court Fees, viz.:—	£ s d
Stock-in-Trade	..	123 4 0	Fees in respect of 68 Creditors and 54 Debtors, and including Stationery, Printing, Postages, Rooms for Meetings of Creditors	9 14 0
Machinery	300 0 0	18 2 10	5 per cent. on amount of Assets realised, £174 6s. 10d.	8 14 9
Trade Fixtures, Fittings, Utensils, &c.	27 19 4	29 0 0	2½ per cent. on amount of Dividend, £25 7s.	2 7 8
Book Debts	40 0 0	19 11 10	Ad-valorem Duty on Audit, &c.	2 0 0
Surplus from Securities in the hands of Creditors fully secured	..	..	Other Fees	3 6 8
Receipts per Trading Account	..	..		26 3 1
Total	£367 19 4	194 18 8	Person appointed to assist Debtor to prepare Statement of Affairs	2 2 0
Less:—			Shorthand Writer's Charges	1 18 6
Payments to Redeem Securities	0 10 0	8 17 2	Auctioneer's, Surveyor's, and Valuer's Charges	10 16 6
Payments per Trading Account	8 7 2	..	Costs of Notices in <i>Gazette</i> and Local Paper	1 10 0
			Court Fees, &c., in connection with recovery of Book Debts	0 6 0
			Incidental Outlay	0 2 0
				43 5 7
			Allowance to Debtor	7 10 0
			Creditors, viz.:—	£ s d
			1 for Rent	21 15 0
			2 Preferential Rates	17 13 6
			58 Unsecured—	
			First and Final Dividend now declared of 3s. 1d. in the £ on £618 9s. 1d.	95 7 0
			The Debtor's estimate of amount expected to rank for Dividend was £330 5s. 10d.	134 15 6
			Balance	0 10 5
Total	£186 1 6	£186 1 6	Total	£186 1 6

Bad Debts and Income Tax Returns.*(To the Editor of The Accountant.)*

SIR,—I should be glad to have your valuable opinion on the following point.

A firm for some years past has been in the habit of supplying goods to a customer, on a system of extended credit, to enable him to work up a business. The customer had practically paid nothing off his account when he recently failed. The firm had charged these goods to the debit of Drawing Account for private reasons.

Now that the firm has incurred a bad debt, is it entitled to charge same against profits for income-tax purposes? The goods were such as were supplied in the ordinary course of business.

I enclose my card, and beg to subscribe myself,

Yours faithfully,

25th October 1906.

AN ENQUIRER.

[On the facts stated we see no reason why the loss should not be claimed as a deduction for income tax purposes.—ED. ACCT.]

Income Tax—Abatement Claim by Trustees.*(To the Editor of The Accountant.)*

SIR,—I shall be glad if you, or your readers, will express views upon the following.

Z. dies and leaves the whole of his estate upon trust, the trustees to pay an annuity to the widow and accumulate all other income until her death, when the estate is to be realised and distributed to the beneficiaries.

The entire income is derived from property; Schedule A assessment being chargeable to, and paid by the trustees. The net income, after deducting interest, &c., is about £150 per annum.

The trustees claim exemption, and repayment of

difference between the amount paid under Schedule A and amount deducted when paying interest, annuity, and ground rents.

Are they entitled to this, or must the trust estate pay income-tax on the income not distributed (although the income is under £160)?

Yours faithfully,

29th October 1906.

ALPHA.

[The tax must be paid, beneficiaries entitled to exemption may, upon application in the proper form, obtain a refund of the tax deducted from their respective interests.—ED. *Acct.*]

Bankers and Borrowers.

(To the Editor of *The Accountant*.)

SIR,—Referring to the Weekly Note in your current issue with regard to my lecture at Liverpool on the above subject, your query is founded on a misprint in the newspaper on which the comment is based. Instead of "a full analysis of the Balance Sheet of a typical lender to a limited liability company," the sentence should have read, "a full analysis of the "Balance Sheet of a typical trader and of a limited "liability company." The mistake must have arisen when the account was telegraphed from Liverpool to London.

Yours faithfully,

London, 30th October 1906.

F. E. STEELE.

"Reserve Fund Account" or "Reserve Account."

(To the Editor of *The Accountant*.)

SIR,—A trading concern working under a special Act is subject to Government audit.

The capital is raised by debentures which are placed with the State Treasury.

The Act provides for a Sinking Fund for debenture redemption.

By arrangement with the Treasury the periodical appropriations to Sinking Fund are applied in

immediate cancellation of a corresponding portion of the debenture indebtedness.

The accounts are prepared on the single account system, and it can be assumed that the assets have been kept up to book value out of revenue.

In the books, in order to literally comply with the statutory requirements, the amounts periodically due for debenture redemption are in the first place debited to Net Revenue Account and credited to Sinking Fund Account. As the amount is immediately applied in cancellation of debenture indebtedness, entries are simultaneously passed debiting Sinking Fund Account and crediting a special account called "Reserve Fund "Account, being amount of debentures redeemed out "of Sinking Fund," and the item is shown in precisely the same form on the *Dr.* side of the Balance Sheet.

In his report on the accounts, the State Auditor-General has remarked on this item in the Balance Sheet as follows:—

"The debentures redeemed out of Sinking Fund to date amount to £ : : . The contra entry, shown in the Balance Sheet as 'Reserve Fund Account,' I consider would be more correctly expressed as 'Reserve' or 'Surplus' Account."

The procedure adopted in the accounts is strictly in accordance with that stated in Dicksee's "Advanced Accounting," and the Auditor-General's opinion is supported by Pixley.

It seems to the writer that neither of the titles mentioned conveys a clear idea as to the nature of the account in this particular case, and that some such title as "Appropriations from Revenue in reduction of Debenture Capital" would be more appropriate; but the case gives an example of the confusion caused by the publication by very eminent authorities of diametrically opposed views, and it is thought that some reference in your valuable paper to the point raised might lead to a better understanding of the correct procedure.

Yours faithfully,

JOHN BROWN.

[We will deal with this point at an early date.—ED. *Acct.*]

The Bitter Cry of the Ratepayers.

Its Remedy: An Intelligible System of Accounts, with full Publicity and a Government Audit.

By MAJOR-GENERAL H. P. BABBAGE.

DURING the present year the cry of the ratepayers against their local rulers has been loud and bitter. In theory they have been left by the Legislature to govern themselves, but in practice it has resulted in reckless extravagance and a huge accumulated debt.

(2) Few of our elected rulers have been qualified for their duties by business aptitude, knowledge, or special training, and few indeed take the trouble after election to acquaint themselves with their duties, which they mostly perform in a perfunctory manner.

(3) Good administration depends on the choice of capable agents and careful supervision afterwards.

(4) It is the object here to show how the latter may be carried out.

(5) The general cry is for a Government auditor, but he audits the accounts after the money is spent and the mischief is done; it is far better to provide some check beforehand, and the problem is to find out how that may be effected.

(6) The first thing is to have a clear definition by law of the powers and duties of a town council. That can only be done by Parliament.

(7) The next to select capable agents, which can only be done locally by the ratepayers at each place.

(8) What I shall endeavour to do is to show how the careful supervision may be carried out.

(9) Clearly, it is advisable to make the local public supervise its own affairs, if possible, and for this purpose there should be—First, the utmost publicity in all affairs; second, an intelligible form of accounts; third, a comprehensive annual budget estimate; fourth, an audit in the interests of the ratepayers; and, lastly, an appropriation audit.

(10) The business of a town council is conducted by committees who hold meetings and make minutes. Those of the Finance Committee embody a financial statement, with a schedule of bills to be paid. These are submitted to the committee, and are altered, amended, or confirmed at a council meeting. All these minutes of committees thus become part of the minutes of the council itself, which are printed for the use of the town council, and every ratepayers' association should get copies of the minutes and financial statement, and discuss them with the proceedings of the meetings of the town council as published

month by month in the local press. Copies of the council minutes as passed by the council ought to be, if they are not, placed in the public library for general information, and also supplied for a small fee to ratepayers' associations and individual burgesses who ask for them.

(11) Any burgess is entitled by Section 233 (1) of the Municipal Corporation Act, 1882, to see and take copies of these minutes; and by (7) (a) anyone having custody of them obstructing him is liable to a penalty of £5.

(12) I will now deal with the administration and accounts of municipal finance.

The dominant idea should be to make the accounts in a uniform shape, applicable to every borough, and as intelligible as possible to an ordinary ratepayer; everything ought to give way to that. And with that view the national system should be adopted, as far as applicable, and leave nothing to be desired as regards coherence, continuity, and harmony; and, where possible, the accounts should be arranged so as to give double entry.

(14) First, there should be an annual budget estimate for receipts and payments, to the last penny, including both revenue and capital (loan) expenditure. It would, of course, include the estimates for the rates as required by law. It would be framed on the "receipts and payments" of the three previous years, under the same heads and sub-heads from year to year. No doubt this would be strongly opposed by town councils; for even honest men would, at first, find the restraint irksome, and probably oppose it with all their might.

(15) The cash should be kept in a bank and in one general account, except the sinking fund.

(16) There should be separate office Cash Books for each department or head, as "Borough Fund," "General District Fund," Water, Electricity, &c. &c.

(17) Once a week, or oftener, the bank will inform the Borough Accountant of every item of receipt and payment made to or by the bank to date.

(18) The Borough Accountant, or his chief assistant, will find the aggregate total of all the office Cash Books of the various departments, and see that it agrees with the Bank Pass Book, which, it need scarcely be said, should be kept under lock and key. That is a most effective check.

(19) The bank must have regular authority for every payment shown in the Pass Book. No charges for interest or for services rendered, &c., must appear there, unless duly authorised by the Finance Committee.

(20) The Bank Account will be balanced periodically, but, at the end of each month, a space of two or three lines should be left blank where the Borough Accountant can

enter in an inner column and in red ink the monthly total, and adjust payments, refunds, &c.

(21) The monthly financial statement should contain on one side two columns—one for the names of the payees of cheques and the amounts due to each, and the other with the items dissected according to the committees responsible for them; the totals of the two should, of course, agree. On the other side of the folio the receipts for the month previous should be given, agreeing with the Bank Pass Book.

(22) It follows that at the end of the twelve months the aggregate total of the monthly schedules (see Paragraph 19 above) will agree with the total of the Bank Pass Book (allowing for unpaid cheques, if any), giving a double entry.

(23) The Monthly Statements have to be printed for the use of the town councillors; and it will cost no more to set them up in type for the use of the Finance Committee,

so that each member may have a copy, instead of merely hearing a list read out. After approval by the committee copies should be struck off for the use of the town councillors, and after approval by the council copies would be struck off, with any necessary alterations, as part of the minutes of the council.

(24) There can be no doubt that this will secure accuracy and speed; for type errors could not escape detection, and several could be working simultaneously at the same figures, arranging them in the various ways required. It would deprive town councillors themselves of any excuse for ignorance when they each had a printed copy, and copies might be disposed of for the use of the ratepayers, as suggested above in Paragraph 10.

(25) I give here a pattern for the Monthly Statements, and I must explain that, in order to save space, this and the other forms here are given in skeleton, sufficient to make them intelligible and show how they check themselves.

BOROUGH OF SLOCUM.

MONTHLY SCHEDULE, SEPTEMBER 1904.

RECEIPTS TO DATE.

	£	s	d
By Precept on Overseers	3,000	0	0
Rate Collector	2,753	10	3
Public Baths	21	10	0
Other Items	8,188	11	4
Total	£13,963	11	7

* As in the Bank Pass Book.

PAYMENTS TO BE MADE.

Name of Payee and Purpose	Amount	Name of Committee	£	s	d	£	s	d
Anderson, G., Ironmongery	2 8 0	PUBLIC HEALTH—						
Bull, A., Harness Repairs	3 8 4	Stationery	1	2	6			
Carey, J., Materials	39 17 3	Unions for Hose	5	8	0			
Many others	18,310 12 1	Drawing Materials	5	7	3			
		Other Items	113	2	1			
						124	19	10
		GENERAL PURPOSES—						
		Committee Books	18	8	6			
		Lighting Offices	19	7	7			
		Stationery	1	11	4			
		Other Items	47	9	8			
						86	17	1
		OTHER COMMITTEES				18,144	8	9
Total	£18,356 5 8	Total				£18,356	5	8

Note—The aggregate total of the twelve months' Schedules must agree with the Bank Pass Book (barring the cheques unpaid) at the end of the year.

(26) The Monthly Statements (being arranged in the first instance according to committees) have to be dissected and rearranged under the budget heads. For this purpose a responsible official will mark in the margin of each Monthly Statement the proper budget head, as A 17, D 13, N 6 for each item. The result will be a set of accounts which are nothing more than a classified list of receipts and payments under each head, which any ordinary ratepayer can understand.

(27) But in order to bring them together, and to give a double entry, there should be an abstract from the Bank Pass Book for the year as under:—

Receipts.			Payments.		
1903.		£ s d	April 1 Due to Bank	£ s d	
April 1 In Bank		0 0 0	" " Paid in Year	78,896 3 11	
" " Received in Year	213,044 14 4		1904.		
1904.			Mar. 31 Balance ..	0 0 0	
Mar. 31 Due to Bank..	39,859 7 2				
	£ 252,904 1 6			£ 252,904 1 6	

And a summary of all the separate accounts above mentioned as under:—

BOROUGH OF SLOCUM.

SUMMARY OF RECEIPTS, PAYMENTS, AND CASH.

RECEIPTS.

	In Bank 1st April 1903	Received in the year	Deficit 31st March 1904	Total
1	2	3	4	5
	£ s d	£ s d	£ s d	£ s d
Revenue:—				
Borough Fund	1,589 11 5	25,165 3 0	..	26,754 14 5
Public Library	..	1,532 4 6	256 2 9	1,788 7 3
Urban Authority	..	57,714 0 7	1,264 3 2	58,978 3 9
Other items	3,993 13 0	72,411 12 7	..	76,405 5 7
Total	£5,583 4 5	£156,823 0 8	£1,520 5 11	£163,926 11 0
Capital:—				
Victoria Park	..	18 2 4	4,526 0 0	4,544 2 4
Town Hall.. .. .	..	25,000 0 0	638 0 5	25,638 0 5
Sewage Farms	466 16 11	4,490 14 7	90 5 6	5,047 17 0
Other items	6,576 10 10	27,652 16 9	30,910 16 4	65,140 3 11
Total	£7,043 7 9	£57,161 13 8	£36,165 2 3	£100,370 3 8
Grand Total	£12,626 12 2	£213,044 14 4	£55,912 9 10	£281,583 16 4
Nett	..	£213,044 14 4	£38,850 7 9	£252,904 1 6

PAYMENTS.

	Deficit (if any) 1st April 1903	Paid in the year	Balance 31st March 1904	Total
6	7	8	9	10
	£ s d	£ s d	£ s d	£ s d
Revenue:—				
Borough Fund	..	26,350 12 1	404 2 4	26,754 14 5
Public Library	247 11 8	1,540 15 7	..	1,788 7 3
Urban Authority	3,106 3 3	55,872 0 6	..	58,978 3 9
Other items	..	66,067 11 2	10,337 14 5	76,405 5 7
Total	£3,353 14 11	£149,830 19 4	£10,741 16 9	£163,926 11 0
Capital:—				
Victoria Park	4,544 2 4	..	..	4,544 2 4
Town Hall.. .. .	20,928 11 10	4,709 8 7	..	25,638 0 5
Sewage Farms	56 10 0	4,918 12 0	72 15 0	5,047 17 0
Other items	40,193 11 7	15,488 0 2	9,458 12 2	65,140 3 11
Total	£65,722 15 9	£25,116 0 9	£9,531 7 2	£100,370 3 8
Grand Total	£97,640 9 3	£174,007 17 7	£20,273 3 11	£281,583 16 4
Nett	£78,896 3 11	£174,007 17 7	..	£252,904 1 6

(28) It will scarcely escape notice that this statement affords a most effective check on the whole body of accounts by the double entry of the horizontal and vertical figures, and gives to the ratepayers a bird's-eye view of their affairs, besides being an exhaustive exposition of the financial condition of the corporation, from which the character of the administration may be judged. I doubt whether this form is in use in many corporations, metropolitan or country. The Incorporated Accountants no doubt take immense pains over their printed abstracts of accounts, but until they study what will render them intelligible to the ratepayers, for whose use they are intended, their labour is vain.

(29) I will here quote from an article in *The Financial Times* last July, written by W. R. Lawson, on the accounts of the London County Council, but of general application:—

"This 112 millions (of national revenue) is all in one account, very little encumbered with transfers and cross entries. The voting of it is comparatively plain sailing, and the account itself is as simple as human skill can make it. In the midst of our grumbling about Imperial extravagance, let us not forget our obligations to the Treasury for giving us the plainest and most intelligible system of public accounts in existence. Why so creditable an example is not followed by our municipal authorities is a wonder; but instead of emulating it, most of them seem anxious to get as far away from it as they possibly can."

(30) It is necessary to explain that the advances with officials are usually kept separate from the treasurer's (i.e., banker's) balances at the beginning and end of the year; this tends to confuse the account. If the officials were directed to pay into the bank on the last day of the financial year the balances in their hands, and get a fresh advance on the next day, it would simplify matters, and the foregoing forms have been arranged as if it had been done. From time to time the officials should present their vouchers and receive a cheque for the exact amount. There would then be vouchers for each cheque, and they would be scrutinised at once instead of as part of a running account, perhaps months afterwards.

(31) The Petty Cash Books of all officials should be submitted to the Borough Accountant each month, and he should have authority to call for and inspect every book of account in any department belonging to the corporation whenever he thinks fit. He should not be allowed or required, either by himself or his assistants, to receive or pay money. It is his business to record transactions, and no further responsibility should be put on him.

(32) By these arrangements the Monthly Statements can be added together month by month, and the yearly Account of Receipts and Payments be ready shortly after the end of the financial year.

(33) I will now show how the "Income and Expenditure Accounts" can be worked out from the receipts and payments by incorporating with them the outstanding balances "for" and "against" at the end of the year.

(34) It is the fashion of Incorporated Accountants to urge that the official system of the Local Government Board ignores these balances, and does not give a complete view of the transactions of the twelve months. If they looked beyond the narrow trammels of their art they would see that these balances are not ignored, but come under audit in the next year's accounts. Municipal undertakings give no dividends, and, one year with another, it is of no consequence in which year the balances are audited. They should be transcribed in the new year's Ledger as the first entries "for" or "against" under each head of account, and nothing but gross carelessness would then prevent their early adjustment.

(35) There will, of course, be "Personal" or "Bought and Sold" Ledgers for each undertaking or department, and, at the end of each year, a separate statement for each should be made and entered in the Ledger in the following form:—

WATER UNDERTAKING.

INCOME AND EXPENDITURE for the Year to 31st March 1904.

		£	s	d			£	s	d
Received in the Year (a) ..					Paid in the Year (a) ..				
Deduct, Received for previous Year ..	..				Deduct, Paid for previous Year ..	..			
Total ..					Total ..				
Add, Due at end of Year					Add, Owing at end of Year ..	..			
Income for the Year ..					Expenditure for the Year				

(a) This must agree with the Bank Pass Book.

(36) If bad debts have occurred, or other adjustments are required, they will be made here.

(37) In order to arrive at the gross "revenue income and expenditure" of the corporation for the year, it is necessary to tabulate all these separate statements together, thus:—

BOROUGH OF SLOCUM.

INCOME AND EXPENDITURE for the Year ended 31st March 1904.

REVENUE INCOME.

Name of Account 1	Received in the Year 2	Deduct Received for the previous year 3	Total 4	Add Due at the end of the year 5	Total Income for the year 6
	£ s d	£ s d	£ s d	£ s d	£ s d
Borough Fund	26,754 14 5	350 3 0	26,404 11 5	423 10 10	26,828 2 3
Public Library	1,533 7 9	78 2 3	1,455 5 6	72 15 9	1,528 1 3
Sewage Farms	2,122 15 10	35 5 10	2,087 10 0	34 10 5	2,122 0 5
Water Works	19,043 10 11	1,792 14 8	17,250 16 3	3,647 14 7	20,898 10 10
General District Fund	56,803 13 10	1,355 12 3	55,448 1 7	1,292 16 6	56,740 18 1
Electric Lighting	21,544 3 9	4,513 3 5	17,031 0 4	3,654 16 8	20,685 17 0
Total	£127,802 6 6	8,125 1 5	119,677 5 1	9,126 4 9	128,803 9 10

REVENUE EXPENDITURE.

Name of Account	Paid in the year 7	Deduct Paid for the previous year 8	Total 9	Add Due at the end of the year 10	Total Expendi- ture for the year 11
	£ s d	£ s d	£ s d	£ s d	£ s d
Borough Fund	26,350 14 5	1,720 14 2	24,630 0 3	2,195 0 8	26,825 0 11
Public Library	1,537 8 0	125 16 7	1,431 11 5	106 1 9	1,537 13 2
Sewage Farms	2,863 6 8	95 5 5	2,768 1 3	131 18 8	2,899 19 11
Water Works	22,352 4 1	270 14 7	22,081 9 6	1,424 7 3	2,505 16 9
General District Fund	55,103 13 10	1,456 4 8	53,647 9 2	1,455 6 11	55,102 16 1
Electric Lighting	19,732 13 4	1,646 10 6	18,086 2 10	991 14 1	19,077 16 11
Total	127,960 0 4	5,315 5 11	122,644 14 5	6,304 9 4	128,949 3 9

(38) This statement does for the Ledger balances what the statement with Paragraph 27 does for the receipts and payments; it should be entered among the general returns for publication to the ratepayers. A good many ratepayers do not understand the difference between a "Receipt and Payment Account" and an "Income and Expenditure Account." This would show them how the one should be deduced from the other, and its correctness proved by the cross addition.

(39) A similar statement is not required for (loan) capital expenditure, which goes on continuously without regard to any particular twelvemonth, but, of course, it should be controlled by the yearly budget estimate.

Estimate for Rate.

(40) The estimate for the rate is based on the receipts and payments of the previous year, or of the two previous years. It should be printed of a uniform size with the annual volume of accounts and the minutes of the council.

(41) Section 144 (1) of the Municipal Corporation Act, 1882, says that the council shall "from time to time" estimate what "will be sufficient"; and (2) says that the council shall from time to time order a rate, to be called a borough rate, to be made. Clearly that rate cannot include any retrospective item, but if there is any doubt on the subject it is cured by (3), which authorises a rate to be made retrospectively to cover expenses already incurred.

(42) Section 210, Public Health Act, 1875, empowers an urban authority to make from time to time a rate, or rates, to be called "general district rates," and says, "Any such rate may be made and levied either prospectively in order to raise money for the payment of future charges and expenses, or retrospectively in order to raise money for the payment of charges and expenses incurred at any time within six months before the making of the rate."

(43) Thus no rate can be made under either Act including items both prospective and retrospective. The object evidently is to make the rates for the year cover the expenses of the year and secure careful management. Yet in some boroughs this salutary provision is habitually disregarded, and ratepayers are deceived as to the true poundage of the rate. If there was a large deficit, and a retrospective rate was made, there would be an outcry from the ratepayers which the council would not like, and the result would be that estimates would be more carefully framed to cover expenses, and it would not be possible, for election purposes, to defer payments so as to throw the burden of one year on to the next, or to excuse mismanagement by saying it was due to the last year's council.

(44) In the slipshod way in which the town business is too often done no notice of this is taken by the Town Clerk, who is responsible for it, who, when called upon, usually gives his opinion verbally, leaving no record of it.

(45) In the case of the authorised trading undertakings of a corporation—as Water, Gas, Electric Lighting, and so on—the budget should take the place of the estimate for the rate.

(46) No balance “for” or “against” in the previous year should be brought forward in the estimate or in the budget, but future profit and loss should be estimated for in the rates. Any realised cash profit or loss should be carried each year to the General District Fund, after allowance for depreciation, reserve fund, and a reasonable working balance. Should there be any further balance available it should go to reduction of debt.

(47) Under such management every proposal would be received with due consideration, and no wild-cat scheme could be suddenly brought forward and adopted without due consideration and regard to expense.

Capital.

(48) At present Water, Gas, Electricity undertakings, and so on, are carried on under general Acts and Provisional Orders of the Local Government Board, and no expense may be incurred except under these or the Municipal Corporation Act, 1882 and the Public Health Act, 1875, and, before loans can be raised for such purposes, the sanction of the Local Government Board must be obtained.

Capital for these undertakings can only be obtained by loan, and the accounting of it should be kept most carefully distinct from the revenue, as shown in the Summary of Receipts, Payments, and Cash Balances above given in Paragraph 27.

Commercial Undertakings.

(49) Of course, for each separate work or undertaking there should be a complete set of books based on “receipts and payments” (Bank Pass Book), and Ledgers,

and an Income and Expenditure Account for each, as shown in Paragraph 40.

(50) There should also be a Profit and Loss Account and a Balance Sheet.

(51) A good deal of misunderstanding has arisen from the form of Net Revenue Account on electrical undertakings laid down by the Board of Trade. It omits the charges for interest on and repayment of loans, and then shows a handsome profit, but, to make a comparison fair, the shareholders' capital should be put in the Balance Sheet against the loan capital of the municipal undertaking, and the same rate of interest be charged on both. When a dividend is declared in a commercial company the whole of it is not profit, but only the excess over the current rate of interest, and in a municipal undertaking the interest on the loan capital must be reckoned before a profit can be honestly claimed.

(52) Every Capital Account will be included in its proper place in the “Summary of Receipts, Payments, and Cash Balances” (Paragraph 27).

Sinking Funds.

(53) The accounts of the sinking funds should be kept entirely separate from all other accounts.

(54) There should be a “General Investment Ledger,” in which all interest received from investments should be entered, as well as contributions from the rates. Each loan will have a head, under which its Sinking Fund Accounts will be put; but the interest payments need not be allocated till the end of the year, and then done all together and recorded in the annexed forms.

(55) These are given here, in two skeleton forms to save space, with only the headings and a few items and the totals. It will be observed that the tabular form, here as elsewhere, lends itself to show the correctness of the whole, which is further proved, if need be, by the final total of the two statements agreeing.

BOROUGH OF SLOCUM.

SINKING AND CONSOLIDATED LOANS FUNDS COMBINED. 31st March 1905.

SINKING FUND.

Name of Account	Invested on 31st March 1904	Uninvested Balance on 31st March 1904	Added during Year		Total of Cols. 1, 2, 3 & 4
			From Rates	Interest on Investments	
			1	2		3	4	5
	£ s d	£ s d	£ s d	£ s d	£ s d
Victoria Park	1,560 0 0	32 8 7	194 3 6	50 4 5	1,836 16 6
Sewage Farms	880 0 0	15 18 8	168 9 5	29 1 3	1,093 9 4
Public Baths			80 3 11	1 0 0	81 3 11
Other Items	33,156 5 6	1,141 2 5	6,470 8 11	1,107 7 8	41,875 4 6
Total Sinking Fund ..	35,596 5 6	1,189 9 8	6,913 5 9	1,187 13 4	44,886 14 3

CONSOLIDATED LOANS FUND.

Town Hall	789 0 0	7 6 9	55 7 3	24 2 5	875 16 5
Streets Improvement	12,482 14 8	19 6 10	405 3 2	395 3 0	13,302 7 8
Refuse Destructor	240 0 0	2 3 1	14 0 0	8 9 2	264 12 3
Other Items	22,926 0 0	27 14 8	738 3 0	687 2 6	24,379 0 2
Total Consolidated Loans Fund ..	35,437 14 8	56 11 4	1,212 13 5	1,114 17 1	37,821 16 6
Grand Total ..	£71,034 0 2	£1,245 1 0	£8,125 19 2	£2,302 10 5	£82,708 10 9

SINKING FUND.

Name of Account	Invested during Year 6	Principal Repaid during Year 7	Total Invested on 31st March 1905 8	Uninvested Balance on 31st March 1905 9	Total of Fund (Cols. 8 & 9) 10
	£ s d	£ s d	£ s d	£ s d	£ s d
Victoria Park	269 0 0	..	1,829 0 0	7 16 6	1,836 16 6
Sewage Farms	200 0 0	..	1,080 0 0	13 9 4	1,093 9 4
Public Baths	60 0 0	..	60 0 0	21 3 11	81 3 11
Other Items	7,567 0 0	..	40,723 5 6	1,151 19 0	41,875 4 6
Total Sinking Fund ..	8,096 0 0	..	43,692 5 6	1,194 8 9	44,886 14 3

CONSOLIDATED LOANS FUND.

Town Hall	80 0 0	..	869 0 0	6 16 5	875 16 5
Street Improvement	1,040 0 0	221 16 11	13,300 17 9	1 9 11	13,302 7 8
Refuse Destructor	20 0 0	..	260 0 0	4 12 3	264 12 3
Other Items	1,860 0 0	500 0 0	23,286 0 0	93 0 2	23,379 0 2
Total Consolidated Loans Fund ..	3,000 0 0	721 16 11	37,715 17 9	105 18 9	37,821 16 6
Grand Total ..	£11,096 0 0	£721 16 11	£81,408 3 3	£1,300 7 6	£82,708 10 9

BOROUGH OF SLOCUM SINKING FUND INVESTMENTS, 31st March 1905.

Page	Name	Amount	Swansea Corporation	Nelson Corporation	Middlebro' Corporation	Barrow-in-Furness	Brixham U.D.C.	Rhondda U.D.C.	Tynemouth	Newport	Burton-on-Trent	Total Invested on 31 March 1905
1	2	3	4	5	6	7	8	9	10	11	12	13
			£	£	£	£	£	£	£	£	£ s d	£ s d
28	SINKING FUND—											
30	Water Works	..	..	390	270	..	..	160	150	629	230 0 0	1,829 0 0
32	Public Library	..	..	150	160	..	..	..	150	490	130 0 0	1,080 0 0
	Sewage Farms	..	..	290	160	..	..	170	300	1,860	..	2,780 0 0
	Other Items	..	..	1,150	2,170	4,910	923	2,670	5,400	20,217	563 5 6	38,003 5 6
	Total Sinking Fund ..	..	..	1,150	3,000	5,500	923	3,000	6,000	23,196	923 5 6	43,692 5 6
	CONSOLIDATED LOANS FUND—											
26	Victoria Park	..	..	50	189	..	..	..	..	510	120 0 0	869 0 0
150	Streets Improvement Fund	..	..	1,130	1,200	1,400	1,077	..	2,000	3,420	3,073 17 9	13,300 17 9
152	York Cottage	..	..	..	21	..	..	..	..	20	..	41 0 0
	Other Items	..	..	3,670	590	2,100	2,000	..	2,000	5,950	2,195 17 9	23,505 0 0
	Total Consolidated Loans Fund ..	..	..	4,850	2,000	3,500	3,077	..	4,000	9,900	5,388 17 9	37,715 17 9
	Grand Total ..	..	..	6,000	5,000	9,000	5,000	4,000	3,000	10,000	6,312 3 3	81,408 3 3

(56) Years ago the loans used to be raised by terminable annuity of fixed amounts, calculated so that interest and capital were both paid off in a fixed time, and the instalments used to be paid regularly. The terminable annuities afforded no facilities for paying off intermediately, but, on the whole, the system seems the best for town councils, and ratepayers could understand it.

(57) Then the sinking fund arrangement came into use. It gave something to play with; there were loans to be negotiated and sinking fund money to be invested; there were commissions to be got, and it required an expert to tell the exact yearly payment required. Some town councils have wished to invest their sinking funds in loans to their own undertakings, and they are habitually invested with other corporations who are themselves heavily sunk in debt and insolvent, were it not for their power to extort money from the ratepayers in the shape of rates. I could quote an example of two corporations mutually investing equal sums with the other and exchanging cheques, everything being in apparent order! Is not the investment a sham and the system rotten?

(58) Every year there is an instalment to be invested and there is difficulty about it, so that there is usually an uninvested balance at the end of the year and a loss of interest. The fundamental rule for sinking funds is that money must be quickly invested.

(59) Lastly, there came the plan of issuing stock to be redeemed by sinking fund. Loans were consolidated and stock issued, but almost invariably under par, with a consequent increase in the face value of the debt, and at the present moment the selling value has fallen considerably below the price of issue. It would be dangerous to give any corporation power to deal with its own or any other stock, and I give a newspaper cutting from the report of the professional paid auditors of a borough (there were the usual elective auditors besides) to prove it:—

"We have verified the several investments, and they appear in the Balance Sheet at their cost price. A portion of the investments existing on the 31st March 1905 were realised during the period under review, and a deficiency of £498 3s. 4d. was thereby occasioned. As against this deficiency, a surplus of £2,310 8s. 2d., arising from purchase and cancellation of the borough's redeemable stock, is included in the sum standing to the credit of the sinking fund, and, after providing for the above-mentioned deficiency, leaves £1,812 4s. 10d. available as provision for any contingent loss."

But possibly they might be trusted with power to buy stock by public tender and cancel it, using the annual instalment provided for the payment of debt.

The Audit.

(60) The audit of the accounts of metropolitan boroughs,

and a few of the country ones, and of the educational committees, is now conducted by auditors nominated by the Local Government Board, but the rest of the provincial boroughs elect their own auditors, one nominated by the council and two elected by the ratepayers, who can only vote for one candidate apiece.

For the most part the audit by the elective auditors resolves itself into a verification of the arithmetical accuracy of the figures, which is unnecessary, because the accounts may be so arranged as to show double entries and prove themselves to the eye, and so satisfy the ratepayers of their correctness; and next, because an error very rarely occurs. The real work of the auditor comes after the arithmetical test is completed.

(61) The duties of an auditor of the accounts of a municipal borough are the same as for the accounts of a guardian of the poor, and are given in Section 95, Chapter 56 of 1 and 2 Victoria, 1838, which I will here transcribe:

"And such auditors shall examine into the matter of such account, and shall disallow and strike out of every such account all such charges and payments as they shall deem to be illegal or unfounded, and shall reduce such as they deem to be exorbitant, and shall insert in every such account such charges against the person accounting as they deem such person liable to, specifying upon or at the foot of such account every such charge or payment, and its amount, so far as they shall disallow, reduce, or insert the same and the cause for which the same is disallowed, reduced, or inserted."

(62) In the appeal case, *Thomas v. Devonport Corporation*, the Lord Chief Justice (Russell), in announcing judgment, said:—

"I do not subscribe to the doctrine that a borough auditor's sole duty is to see whether there are vouchers apparently formal and regular justifying each item in respect of which the authority seeks to get credit upon the accounts. I think that that is an incomplete and imperfect view of the duties of an auditor. I think he is not only entitled, but justified and bound, to go further than that, and by fair and reasonable examination of the vouchers to see whether there may not be amongst the payments so made payments which are not authorised by the duty of the authority or contrary to the duty of the authority, or in any other way illegal or improper, and if he so discover such payments it would be his duty to make them public, certainly to report them to the authority itself, and certainly to report them to the burgesses who had created that authority."

(63) Now, in contrast with the above, I give here a copy of the remarks of an elective auditor, who stated his reasons for not signing the report of his colleague:—

"I have not signed the above report for the following reason :—

"The Municipal Corporations Act, 1882, defines the audit as follows :—

"The treasurer shall make up his accounts in each half-year, and submit them with the necessary vouchers and papers to the borough auditors, and they shall audit them."

"This has been done by my colleague and myself, and the accounts duly passed as correct.

"The above report is a criticism of the book issued by the Borough Accountant with the sanction of the town council and a general criticism of the town council's proceedings, for which in each case there may or may not be grounds, and which in my opinion is not the duty of elective auditors.

"If there had been anything wrong in the accounts, or any spending of money without the sanction of the council, I should have drawn the attention of the ratepayers to the same.

(Signed) ———, Elective Auditor."

(64) This represents the position taken up by most of the elective auditors, and, of course, such audit can be of little use, especially if the accounts are reliable and arranged on a proper system of double-entry and coherence and continuity. It may, however, be observed that the remuneration of the elective auditors is usually not too much for the work they do.

(65) Section 27 of the Municipal Corporation Act, 1882, provides for the audit of borough council accounts by three auditors, and Section 246 of the Public Health Act, 1875, provides for the audit of the urban authority by the same auditors. The intention evidently is to leave the burgesses as much as possible to manage their own affairs. One result of this is that the auditors have no power of surcharge, and their only weapon is publicity.

(66) They can call for any and everything connected with the accounts, and, if necessary, enforce its production in the Police Court. Ratepayers' associations must be a poor lot if, besides their rights of inspection mentioned in Paragraph 11 above, they cannot get all the information they want through their chosen auditor, who can at the audit take what notes he likes and report fully to them.

(67) Much may be done by the ratepayers even now, with their present powers, if they will be alive, follow the advice of Lord Rosebery and be aggressive. Where there is a Government auditor and a public audit they should show their interest by attending it, and, if they cannot, they should pay and instruct some capable man to act for them, and, in bad cases, ask for the intervention of the High Court or the Public Prosecutor.

(68) But the repeal of Section 246 of the Public Health Act, 1875, and the sixth word "not" of Section 247, would give adequate power for the auditors, however appointed, and possibly the present system of elective auditors might then be found workable.

(69) Section 247 is too long to give here, but a short summary of its clauses will be useful.

Clause—

- (3) Requires notice of the time and place of audit to be given.
- (4) Accounts to be thrown open for seven clear days before audit.
- (5) Gives power to auditor to require production before him of all books, vouchers, &c. &c.
- (6) Ratepayers may be present and object.
- (7) Auditor shall disallow illegal payments.
- (8) Aggrieved person may apply to Court of King's Bench.
- (9) Sum surcharged to be paid within fourteen days, and, if not paid, auditor shall recover amount.
- (10) Auditor shall report on the accounts within fourteen days to the clerk of the authority.

Surely these provisions are adequate, and if ratepayers will not take the proper steps to enforce them it is their own fault.

Clause (9) is so important that I will transcribe it here :

"Every sum certified to be due from any person by an auditor under this Act shall be paid by such person to the treasurer of such authority within fourteen days after the same has been so certified, unless there is an appeal against the decision ; and if such sum is not so paid, and there is no such appeal, the auditor shall recover the same from the person against whom the same has been certified to be due by the like process and with the like powers as in the case of sums certified on the audit of the poor rate accounts, and shall be paid by such authority all such costs and expenses, including a reasonable compensation for loss of time incurred by him in such proceedings as are not recovered by him from such person."

(70) When the audit is completed and all the items have been properly supported by vouchers, the appropriation audit will not be found troublesome. The actual receipts and payments in the year must be put alongside the estimate for the rate ; the excess or deficiency noted in adjacent columns, and all four columns on each side totalled. No opening or closing balances on either side should be included. Where there is any striking divergence from the estimate on either side the reason should be explained, and if the actual payments have exceeded the actual receipts, the auditor should report it with a view to a retrospective rate being made to cover the excess.

(71) In conclusion, I would again say to property owners and ratepayers' associations, be wide awake and aggressive. Do the best you can under the law as it stands if you cannot get it altered. In London you have Government auditors: attend the audit, notice irregularities, press for surcharges, help and support the auditor. Boroughs should select a qualified and resolute man as their elective auditor, who will report to the council and to them all irregularities. He will, of course, get the authorised salary (which is far too small for a proper audit), but let the ratepayers not think in pence but pay their auditor sufficient to attract a competent man. Nor need an honest town councillor fear an audit, however strict—indeed, he may sometimes be glad to be protected against himself and his colleagues.

The Chartered Accountant Students Society of London.

Compensation under the Licensing Act, 1904.

By W. C. NORTHCOTT.

A PAPER read before the Chartered Accountant Students Society of London on October 17th 1906, Mr. W. PLENDER, F.C.A., presiding.

The subject of compensation has been previously dealt with in the history of this Society, as reference to the published "Transactions" will show, and Mr. F. N. Keen, one of my most distinguished predecessors in the Chairmanship of the Committee, delivered a very interesting lecture on the subject in the autumn of 1902, but to-night I ask you to consider for a short time a special branch of compensation, which has only come into prominence during the last year, and which had its being in the passing of the Licensing Act, 1904 (4 Edw. VII., c. 23). As to the merits or demerits of that Act, and the justification or otherwise for styling it a "Brewers' Endowment Bill," I do not propose to go, neither do I propose to discuss its influence or effect on the accounts of brewery concerns, as these are fully dealt with in the chapter on the Act which I contributed to Mr. Herbert Lanham's book on "Brewery Accounts," but I shall confine myself this evening entirely to the question of compensation under the Act, its history, how it is to be assessed, and how distributed among the interested parties.

Before dealing with figures, it may be interesting to consider for a brief space the history of the subject and the precedents for and against compensation, in order to see how far these may have influenced the framers of the

Act. To those wishing to go more fully into the historical part of the subject I would commend a perusal of the very interesting little book by Mr. C. P. Sanger entitled "The Place of Compensation in Temperance Reform."

Of the many attempts made to reduce the number of licensed properties in this country the following, all of which failed for various reasons, are the best known:—

Mr. Bruce's (afterwards Lord Aberdare) scheme, brought before Parliament in 1871, whereby no money compensation was offered to persons dispossessed of their licences, but existing licences were continued for ten years and then ceased. The Licensing Act, 1872, was the outcome of this scheme.

Mr. Goschen, by the Local Taxation (Customs and Excise) Duties Bill, 1890, proposed that £350,000 should be applied for extinction of licences in England, such money to be provided by the State, and to be under the control of the County Councils.

The Bishop of Chester's Authorised Companies (Liquor) Bill, 1893, provided for the formation of authorised companies, and in districts where such companies were to be formed no new licences should be granted, except to such companies, and after five years from the date of the establishment of an authorised company in any district any licence not held by the company should not, save as provided in the Act, be renewed, and should expire at the close of the period for which it was granted.

Lord Peel's scheme (Minority Report of the Royal Commission on Liquor Licensing Laws, Part 5, Ch. 2) suggested that after seven years from the passing of the Act the licensee should be considered as entitled to no compensation for the loss of his licence, and that meanwhile the maximum of compensation paid should be seven times the rateable value of the premises.

Sir W. Harcourt's Local Option Bill, 1894, which did not provide for any compensation.

On the other hand, in several of our Colonies, and some foreign countries where it has been thought necessary to reduce licences, the Legislature, where compensation has been provided for, has fairly definitely laid down the basis upon which compensation is to be paid. The following are a few representative examples:—

In South Australia, by the Licensed Victuallers Amendment Act, 1891, the basis of compensation is fifteen years' purchase, which is provided by the Treasury.

By the Licensing Act, 1890, of the Colony of Victoria, provision is made for the compensation of those persons whose licences are taken away, the amount being arrived at by arbitration on a "fair and equitable basis" (Section

44), and the compensation fund being provided by the trade itself.

In Norway, by the law of 1880, permanent licences were compensated on a basis of a life annuity equal to the annual profit based on the three previous years.

In Russia, where a Government spirit monopoly has recently been introduced, as may be supposed there was no intention to pay compensation; but in Poland and the Baltic Provinces, where ancient vested rights existed, it was found impossible to extinguish them without any compensation, and these vested interests have been compensated on a basis of the annual profit over a period of five years, multiplied by twenty.

From a Blue Book recently published by the Home Office, entitled "Licensing Statistics, 1905," the effect of the Act of 1904 may be seen in relation to the reduction of licences.

In the year 1905 the total number of licences lost by the action of the licensing justices was 594, of these 514 were extinguished by payment of compensation, and 80 on the ground of misconduct, &c., without compensation. Although rather outside the scope of this paper, it is interesting to note that 226 licences lapsed owing to there being no application for their renewal, making the total reduction of on-licences at Brewster Sessions 820, whilst only 47 new licences were granted under the provisions of Section 4 of the Act of 1904. The total amount of compensation levy received in respect of the year 1905 up to February 26th 1906 was £1,120,669 4s. 2d., and the amount paid out in compensation was £109,474 15s. 11d., the balance, subject to outstanding claims, remaining to form the basis of the Compensation Fund. Assuming that the maximum levy were made in every district, the total amount received would have been £1,209,572 13s. 4d.

It must not be forgotten that a licence is a very special form of property, which carries with it certain benefits to the holder thereof, but, at the same time, great responsibilities. One special feature of interest to accountants is that it does not vest in the trustee in bankruptcy on the failure of a licence-holder; and where a lease of a public-house determinable on the bankruptcy of the lessee contained a covenant by the lessee upon the determination of the term to assign the business to the lessor, and the lessee became bankrupt before the expiration of the term, it was held that his trustee in bankruptcy took no interest in the licence and that the covenant was valid, entitling the lessor to have the licences delivered up to him, though they were not assignable. (*Ex parte Royle; re Britner.*) On the other hand, in practice, where a licence-holder becomes bankrupt, the licence is usually transferred to his trustee.

In considering the question of compensation it is impossible to overlook the reasonable expectation that

licences would usually be renewed from year to year, which the Legislature held out. This is clearly shown by the rights given to owners, as apart from licensees, under the Licensing Act, 1872, Section 56, and Section 15 of the Licensing Act, 1874. By the former, upon conviction of a tenant of an offence the repetition of which may render the premises liable to be disqualified, notice thereof is to be served on the owner, who, when the premises are disqualified, is given the opportunity of appealing on certain grounds; whilst the latter gives the owner of the premises authority to apply to carry on the business until the next special sessions, where the tenant by conviction becomes personally disqualified. The owner also has, under Section 27 of the Alehouse Act, 1828, the right to appeal to quarter sessions as a person aggrieved by the refusal to renew the licence of his tenant. It was under this enactment that the appeal of *Sharp v. Wakefield* arose. An even stronger case is presented in the instance of what are generally termed *ante '69* beer-houses, as, prior to the passing of the 1904 Act, these had a legal right to renewal, and this could not be refused except on four stated grounds.

The compensation is not provided by the State, but by the trade itself—that is to say, the trade is obliged under the Act to bring itself under the mutual insurance scheme instituted by the Act.

The basis upon which compensation is to be paid is laid down in Section 2, Sub-section 1, of the Act, which runs as follows:—

"Where quarter sessions refuse the renewal of an existing on licence under this Act, a sum equal to the difference between the value of the licensed premises (calculated as if the licence were subject to the same conditions of renewal as were applicable immediately before the passing of this Act, and including in that value the amount of any depreciation of trade fixtures arising by reason of the refusal to renew the licence), and the value which those premises would bear if they were not licensed premises, shall be paid as compensation to the persons interested in the licensed premises."

In the majority of cases where quarter sessions had refused to revoke the decisions of the licensing magistrates confiscating licences, the amount of compensation offered by quarter sessions was agreed with the interested parties, and in due course paid over; but in many cases the amounts were not so agreed, and were referred to the Commissioners of Inland Revenue, as provided by Section 2, Sub-section 2, of the Act.

The amount awarded by the Commissioners of Inland Revenue, however, appeared to the interested parties in most cases so meagre as to be impossible of acceptance, with the result that appeal was made to the High Court for a ruling as to the proper method to be adopted in

proceeding under the Act in order to assess the difference in value between licensed and unlicensed premises.

In the two test cases which came before the Court in the form of petitions on appeal from valuations made by the Commissioners of Inland Revenue, the appellants were Ashby's Cobham Brewery Company and Ashby's Staines Brewery Company. The former company had claimed in respect of a fully licensed house, which was to be closed under the Act, their claim for compensation being £2,839. Quarter sessions agreed to allow £1,539, and the Commissioners awarded £455, whilst in the High Court judgment was given for £1,497 10s. In the latter appeal the house to be closed was an *ante* '69 beer-house. The claim was for £1,809 10s. Quarter sessions had refused to fix any amount, the Commissioners of Inland Revenue awarded £500, and the judgment of the High Court was for £1,123.

In these test cases the main contention of the Commissioners of Inland Revenue (evidently inspired by Lord Peel's Minority Report) was that compensation should be based on the value of the premises for the purposes of income-tax under Schedule A (subject to certain modifications), and that they could not take into consideration any claim on the part of the brewing owner in respect of loss of brewery profits on beer supplied to the house; whilst counsel for the appellants claimed that the profit earned was the true basis upon which the compensation should be calculated, to which should be added a further sum for the tenant's interest. The view advanced by the Attorney-General on behalf of the Commissioners of Inland Revenue found no favour with Mr. Justice Kennedy, who, in delivering his reserved judgment, said: "It cannot be right for the tribunal or authority which has to ascertain the market value of licensed premises to refuse to admit evidence of profit which the possible purchaser would certainly treat as a most material factor in the formation of a right judgment as to the value of the licensed premises." The alternative suggestion of the Attorney-General was that three years' purchase would be reasonable, as in the case of *Page v. Ratcliffe*, but the learned Judge would not entertain the suggestion, as that was a partnership case, where the term was seven years and the valuers for all parties agreed that three years' purchase was proper; nor would he admit the claim advanced by the appellants that the sum payable for the tenant's interest should be in addition to the claim for profits. Although many cases had previously been settled in their early stages on the foregoing lines, by the result of these test cases the principle was legally laid down that the valuation for compensation should be on a profits basis, and it is on these lines that future cases will be considered.

Having briefly referred to the history of the subject, and to the cases immediately bearing on the question of assess-

ment of compensation, I will now endeavour to describe one method of the preparation and apportionment of a claim for compensation. I say one method advisedly, because there are other ways of preparing claims, varying with the nature of the property, but the method here shown will, I think, be one of frequent use, and has been drawn up in order to show the various interests concerned.

Assume that a fully licensed house has been scheduled for closure, and the decision of the licensing magistrates upheld on appeal to quarter sessions. The average trade of the house for the last three years has been as follows:—

450 Barrels of Beer,
10 Dozen Wine,
200 Gallons Spirits,
800 Dozen Bottled Beer,

and the rent paid by the occupier £80 per annum.

Average trade for three years in bulk beers:—

	£	s	d	£	s	d
300 Barrels of X at 12s. per barrel, profit ..	180	0	0			
150 do. I.P.A. at 20s. per barrel, profit ..	150	0	0			
450 Barrels, average at 15s. (about) ..				330	0	0

Average trade for three years in wines and spirits:—

10 Dozen at 5s. per dozen, profit ..	..	2	10	0
200 Gallons at 2s. 6d. per gallon, profit ..	..	25	0	0
			27	10 0

Average trade for three years in bottled beer:—

800 Dozen at 6d. per dozen, profit ..	20	0	0
	377	10	0
Years Purchase		12	
	4,530	0	0

Difference in Rent:—

Rent Reserved, £80 per annum—			
Capitalised on 5 per cent. basis	1,600	0	0
Rental Value of Premises Unlicensed, £70—			
Capitalised on 7 per cent. Table £997 0 0			
Less Cost of Alterations to make			
letable	200	0	0
	<u>797</u>	0	0
Depreciation of Fixtures			803 0 0
			<u>100 0 0</u>
Total Claim			£5,433 0 0

Care must be taken to provide that the period over which the average barrelage is taken is sufficient to eliminate the chances of any fictitious increase or decrease in the trade owing to exceptional circumstances. The barrelage is usually based on a three years' average, as shown in the example; but when the trade has been increased by exceptional circumstances which are not likely to be permanent, an average over a longer number of years would be taken.

The number of years' purchase to be applied as a factor is a question for a valuer; but it will be obvious that owing to the diversified nature of licensed properties the number of years' profits to be paid cannot be the same for each house, so much depending upon the position and locality of the house, its structural condition, the prospects of the

neighbourhood as to its growth, retrogression, or the state of trade in the district, but the figure which I have adopted is, I think, a fair average multiplier. When the brewery boom in London was at its height as much as twenty-eight years' purchase was given for houses, hence the difficulties which some of the brewery companies have got into.

The compensation given in respect of *ante '69* licences will be at a higher rate than in the case of other licences, owing to their superior parliamentary title. In a recent case which came under my notice an additional year's value was given when the licence to be taken away was granted prior to 1869, and I believe this is the general practice now in force.

The question of the appreciation of the premises owing to the escheatment of the licence must not be entirely overlooked, although at first sight it may not appear to be reasonable. In order to keep down the assessments on their houses, and thus counterbalance the increase in rates which has occurred all over the country, brewers have in many cases charged only a nominal rent for the premises and recouped themselves for the small rent by charging an extra price for their beers. This has acted very satisfactorily in the past, as the brewer has obtained his full rent from his property (rent plus increased price), whilst the small rental charged to the tenant, according to his lease or agreement, and returned by him for assessment, has succeeded in keeping down the rates on the premises. When, however, the house is scheduled for closure under the Act, and the value of the property after escheatment of the licence is ascertained, this will in such cases exceed the assessed value of the premises as licensed, and a proportionate deduction will have to be made from the compensation paid for the loss of the licence and goodwill. In a settlement which was approved by quarter sessions quite recently a deduction of £504 was made, or nearly one-third of the award. The property was a small fully licensed house, let on an annual tenancy by the brewers, and the rent, according to the agreement, was £22, whereas the value of the premises as a shop was fixed by the valuer to the licensing authority, and agreed by the interested parties, at £50, a difference of £28, which, multiplied by 18 (the number of years' purchase given in this instance), amounts to £504. Had the Act come into force earlier a still larger loss would have been made by the owners, as the rent had only within the last two years been increased to £22.

Having arrived at the value of the licensed premises, the next consideration is, to whom is the compensation to be paid? and in this we must be guided by the section of the Act previously quoted, the concluding words of which state, "to the persons interested in the licensed premises." According to "Paterson's Licensing Acts," the persons interested are "the holder of the licence, the owner, any

"mortgagee, and generally any person having an interest in the premises." Moreover, under Section 2, Sub-section 2, managers of houses, although not the holders of the licences, are specially provided for as having an interest in the compensation paid.

The simplest example of the apportionment of the compensation awarded is where the brewers are the freeholders and the house is occupied either by a manager on their behalf or by a yearly tenant. In either case the rule is to allow the tenant or manager one year's profit out of the compensation awarded, the remainder going to the brewer. In practice there is no difficulty in settling these simple cases, as the brewer usually holds out as a bait for a speedy settlement the probability of his having another house suitable for the tenant, who is only too pleased to see an early prospect of again settling into business.

In order, however, to show the working of somewhat more involved cases, we will assume that the property upon which the licence is to be extinguished is held upon the following tenure:—Held by a firm of brewers on a lease from a private individual (to whom they paid a premium), of which thirty years is unexpired, at a rental of £100 per annum, and is sub-leased by the brewers for seven years to a tenant who is fully tied, at a rental of £80 per annum, the tenant having the right of renewing on the same terms for the remainder of the brewers' lease.

In the supposed case of compensation quoted the interests to be considered are the owner, the lessee, the sub-lessee, and the owner of the fixtures.

To take first the interest of the owner:—

	£	s	d	£	s	d
Estimated Rack Rental of House and Ground						
as Licensed Premises, £150—						
Capitalised at 20 years' purchase				3,000	0	0
Rental Value after escheatment of Licence ..	70	0	0			
Less 5 per cent. Interest on cost of necessary						
Alterations from Licensed Premises to						
Shop (say £200)				10	0	0
				£60	0	0
Capitalised at 14½ years' Purchase (7 per cent. Table) ..				855	0	0
				£2,145	0	0

As, however, any interest which the owner has in the property, other than his rent secured under the lease, is deferred for thirty years, it will be necessary to find the present value of £2,145 deferred thirty years, which on the 4 per cent. table is £661.

The question of the amount of the rack rental of the premises, licensed and unlicensed, is, of course, one for a valuer to determine, and the figures shown above are only used as an illustration of the mode of procedure. The assessment for income-tax under Schedule A, however, may usually be taken as a fair criterion of the true rack rental of the licensed premises as they stand prior to the escheatment of the licence; whilst a fair idea of the letting

value of the premises after the escheatment of the licence may be obtained by comparison with the rents received for neighbouring properties, having due regard to their respective positions for business purposes, &c.

Invariably it will be found that premises which have been licensed will not be suitable to the requirements of other businesses, due to the peculiar nature of the trade carried on and the requirements of the magistrates. Provision will therefore have to be made for alterations, and this is usually done by deducting from the annual letting value of the unlicensed premises the interest upon the cost of the necessary alterations.

The interest of the lessee, in this case the brewer, is the next to be considered :—

	£	s	d
It has been shown that the profit on liquors supplied to the house is	377	0	0
But in order to do this the brewer loses annually in rent £20 and proportion of premium (say £30)	50	0	0
	327	0	0
Years' purchase	12		
	<u>£3,924</u>	0	0

The remaining interest to be considered is that of the tenant and licensee, who is entitled to compensation for loss of the goodwill and loss of profits for the remainder of his term. His compensation is based on the profits earned by him out of the house. These may be arrived at as follows :—

Gross Profit per annum—

	£	s	d	£	s	d
300 Barrels of X at 14s. per barrel	210	0	0			
150 do. I.P.A. at 22s. per barrel	165	0	0			
				375	0	0
10 Dozen Wine at 20s per dozen				10	0	0
200 Gallons Spirits at 10s. per gallon				100	0	0
800 Dozen Bottled Beer at 9d. per dozen				30	0	0
Profit on Minerals and Tobacco (say)				35	0	0
				550	0	0

Deduct Expenses—

Rent	80	0	0
Rates	35	0	0
Licences and Compensation Levy	30	5	3
Trade Expenses	100	0	0
Wages	100	0	0
	345	5	3
Net Profit	204	14	9
Years' Purchase	12		
	<u>£2,456</u>	17	0

It will be noticed that the tenant has been allowed twelve years' purchase, whereas his lease is only for seven years, but it was provided that he had the right of renewal for the remainder of the term of thirty years. Had the renewal been at the option of the brewers a lesser number of years' purchase would have been given, as although a mere expectancy of renewal of a lease, even if reasonable, will not constitute an interest entitled to compensation, an equitable right to a lease may be taken into account.

Probably the trade fixtures are the property of the occupier, he having acquired these by payment on entering into possession, or a portion may be the property of the owner or lessee, but in any event the owner of the trade fixtures is entitled to compensation for their depreciation owing to removal. The valuation of these is, of course, a matter for an expert, but the amount of depreciation will be the difference between their present value as in use and their value as serviceable articles when removed, less the cost of removal, as the Act only provides for "depreciation of trade fixtures arising by reason of the refusal to renew the licence."

It must be borne in mind that no provision is made in the Act for compensation for disturbance, and therefore the 10 per cent. claim under this head, usually allowed when property is acquired under the Land Clauses Acts, is not admissible.

The total claims of the interested parties, as shown by the foregoing statements, amount to £7,042; but as the total compensation awarded is only £5,433, the individual claims will have to be abated proportionately, leaving the final settlement between the various interests as follows :—

	£	s	d
Owner (Freeholder)	502	0	0
Lessee	2,972	0	0
Sub-Lessee and Licensee	1,859	0	0
Owner of Trade Fixtures	100	0	0
Total Amount Awarded	<u>£5,433</u>	0	0

It will be noticed that I have not dealt with the interest of the mortgagee in the licensed premises. I have purposely omitted this, as although in theory he has a certain legal interest in the house—that of part-owner by right of mortgage—still in practice I do not think the interest is one that need be seriously considered. Whether in the case of a private mortgagor, or a company, the mortgagee would most probably serve notice on the compensation authority of his charge, by virtue of his advances, on the compensation to be paid; and, in either case, where the mortgagee is a private person, the amount paid to the owner should be sufficient to satisfy his mortgage, apart from the residual value of the property as unlicensed premises. Losses will probably be sustained by brewery companies as mortgagees, because in the past, in order to secure a market for their output, they have been forced by competition to advance sums on mortgage considerably in excess of the value of the properties, even as licensed houses.

In the London trade the first charges are usually a private individual's or insurance company's mortgage (and sometimes both), ranking prior to the brewer's and distiller's charges, and as a rule, after allowing for the margin, these prior charges are sufficiently secured. In the country trade private mortgages are generally amply secured.

In cases where the mortgagees are the trustees for debenture-holders under a deed where the property is specifically mortgaged to the trustees, the amount of compensation due to the mortgagor (the brewery company) would be claimed by the trustees under the deed, who would probably invest the money and hand the interest thereon over to the company. It should be pointed out, however, that until the principle laid down in *Re George Routledge & Sons, Lim.*, is modified or amended, it would be distinctly unwise for the trustees to invest the money in the company's own debenture stock; in preference they should invest the money in easily negotiable stocks, pending its later reinvestment in further licensed property.

In the volumes of past "Transactions" I have noticed that many of our lecturers open with an apology; by way of novelty I have reserved my apology until the end, and it is for the subject of this paper. A letter recently appeared in *The Accountant*, in which the opinion was expressed that many of our lectures were too far in advance of the junior students, for whom, it was suggested, this Society was primarily formed, and I am prepared to admit that perhaps this paper will come within that category. My object, however, in dealing with licence compensation is that it is an entirely new subject, and one to which I have given some thought, and, in addition, have been brought into contact through business. I do not pretend to have dealt exhaustively with the subject, because many of the calculations are such as can only be accurately determined by a valuer; but I have endeavoured in the short time at my disposal to give you an idea of the general principles of the subject, leaving its further consideration to those who are sufficiently interested to take up the matter. The passing of the Licensing Act, 1904, should be of interest to us, as it opens up an additional sphere of work for accountants, where they may not only be useful to their clients, but, in addition, extend their own professional practice, as many points occur in these compensation cases which can only be satisfactorily settled by an accountant—such as the preparation of accounts, investigation of claims, settling or examining the basis of a claim—all of which can be done by an accountant without his necessarily holding himself out as an expert, whilst in the latter position he can, of course, go much further.

The present is an age of specialisation, and if, when the young accountant commences business for himself, in addition to the high standard of general knowledge of accounts which he must possess in order to become qualified, he can claim to know a little more than his fellows in any special branch, whether that branch be Breweries, Banks, Collieries, Gas Works, or any other business, he stands a much better chance of success than the merely average man in the race for the material rewards of his profession.

At the close of the paper a short discussion ensued, in which Messrs. H. Lanham, F. G. Bowers, R. Kettle, and the Chairman took part.

The meeting closed with a vote of thanks to the reader of the paper and to Mr. Plender for presiding.

The Chartered Accountant Students Society of London.

Syllabus—Autumn Session, 1906.

President—Edwin Waterhouse, M.A., F.C.A.

Secretary and Librarian—Sydney G. Cole, F.C.A.,
1A Frederick's Place, Old Jewry, E.C.

Nov. 14.—Lecture, "Compositions and Schemes of Arrangement in Bankruptcy." A. H. Partridge, A.C.A.

" 21.—Lecture, "Local Authorities and their Finance." T. H. Clare (Treasurer of the City of Birmingham).

Dec. 6 (Thursday).—Seventh Annual Dinner at Hotel Cecil. (Further particulars will be supplied at a later date.)

The lectures, debates, &c., are held on Wednesdays, and commence at six o'clock, unless otherwise stated. All meetings and classes are held at the Institute of Chartered Accountants (entrance in Great Swan Alley).

The Lending Library at 1A Frederick's Place, Old Jewry, is open daily from 9.45 till 5.30. Saturdays, 9.45 till 1.

COACHING CLASSES FOR THE PREPARATION OF CANDIDATES FOR THE INSTITUTE EXAMINATIONS.

The Classes meet at the Institute.

Tutors.

Final—Auditing—L. Cuthbert Cropper, F.C.A.

Bookkeeping and Accounts—Lawrence R. Dicksee, F.C.A. (Professor of Accounting, Birmingham University).

Law—Herbert Jacobs, B.A., Barrister-at-Law.

Intermediate—Bookkeeping, Accounts, and Auditing—Percy Child, A.C.A.

Law—Herbert Jacobs, B.A., Barrister-at-Law.

The classes begin in December and June respectively. No classes are held during August. Full particulars will be sent to each member who has not passed the examinations.

Prizes.

Final.—First Prize, Ten Guineas (in books, or the Committee will pay the successful candidate's entrance fee to the Institute). Second Prize, Three Guineas.

Intermediate.—First Prize, Five Guineas. Second Prize, Three Guineas.

The above prizes will only be awarded in books, and provided that:—

- (a) Members are amongst the first five successful candidates at their Examinations.
- (b) In the Final Examination successful candidates have been members of, and paid subscriptions to, the Society for three consecutive years.
- (c) In the Intermediate Examination successful candidates have been members of, and paid subscriptions to, the Society for two consecutive years.

The special attention of candidates for the forthcoming Intermediate Examination to be held in November is directed to the "Robert Fletcher Memorial Prize," for which they may be eligible. Intending candidates should apply to the Institute for fuller details.

Further particulars can be obtained on application to the Secretary.

Elementary Free Classes.

Bookkeeping, Accounts, and Auditing, conducted by Percy Child, A.C.A.

This class meets on ten Monday evenings, at 6 o'clock, commencing on the 3rd September 1906, and is specially intended for the junior members of the Society.

Law, conducted by Herbert Jacobs, B.A., Barrister-at-Law.

This class meets on ten Friday evenings at 6 o'clock, commencing on the 14th September 1906.

The following subject will be dealt with:—

"NEGOTIABLE INSTRUMENTS."

Examinations.

Examinations will be held at the end of each of the above courses of lectures and prizes awarded.

No member shall be admitted to the examinations if at the date of the last meeting of the Law or Accounts Class (whichever shall first happen) he has served under articles for a longer period than two years; or in the case of University graduates, one year.

Essay Competition.

The Committee of the Union of Chartered Accountant Student Societies offers a First Prize of Five Guineas, a Second Prize of Two Guineas, and a Third Prize of One Guinea, for the three best essays on "The Uses and Limitations of the Card, Loose-leaf Ledgers, and Slip Systems in relation to Matters of Account."

(For rules see *Accountant*, October 6th, p. 386.)

Junior Essay Competition.

The Committee offer a First Prize of Three Guineas, and a Second Prize of One Guinea for the two best essays

"The Audit of small Trading Concerns in cases where there is practically no Internal Check."

Rules.

(1) Essays must be written (not typed) on one side of the paper only.

(2) The name of the writer must not appear upon his essay, but a *nom de plume* must be used. The essay must be accompanied by a sealed envelope, addressed to the Secretary, marked on the outside with the writer's *nom de plume*, and the words "Essay Competition"; the envelope must contain the writer's name and address. The envelopes of the successful essayists will alone be opened, the others will be destroyed.

(3) Essays must not exceed twelve pages of foolscap, and must be delivered on or before 31st December 1906.

(4) The essays submitted for competition will become the property of the Society, and will in no case be returned.

(5) In the event of there being less than three essays submitted, the Committee reserve the right to withhold both prizes.

(6) The second prize will be awarded only in the event of the arbitrator reporting that the essay placed second is of sufficient merit to deserve the prize.

The competition is open to all members of the Society who have not passed the Final Examination of the Institute.

In the event of a prize being awarded, the successful essayist will be invited to read his essay during the Spring Session.

The Leeds and District Chartered Accountants' Students' Association.

(Affiliated with the Working Union of Chartered Accountant Student Societies.)

Syllabus—Session 1906-7.

President—Mr. John Gordon, F.C.A.

Hon. Secretary—Mr. H. G. Payton, A.C.A., 19 Bond Street, Leeds.
1906.

Oct. 18.—"Debentures and Receivers for Debenture Holders." Mr. R. A. Chadwick, M.A., LL.M.

Nov. 1.—Mock Meeting of Shareholders of a Limited Company.

„ 15.—"The Preparation of Accountants' Certificates for purposes of Joint Stock Company Flotations." Mr. A. F. Dodd, F.C.A.

Dec. 6.—Discussion on November Examination Papers.

„ 13.—"Some Notes on Table A." Dr. D. F. De L'Hoste Ranking.

1907.

Jan. 10.—Joint Debate with the Northern Students' Society, to be held at Leeds.

„ 24.—"The Duties of Executors and Trustees." Mr. W. E. Farr, Solicitor.

„ 30.—Joint Debate with the Leicester Students' Society, to be held at Leicester.

Feb. 21.—Mock Meeting of Creditors. Mr. R. A. Chadwick, Solicitor, will represent the Debtor.

Mar. 7.—"The Accounts of Professional Men." Mr. M. Webster Jenkinson, A.C.A.

„ 21.—"The Accounts of a Builder and Contractor." Mr. John A. Walbank, A.C.A.

The lectures will be held at the Law Institution, Albion Place, Leeds, and will commence at 6.30 p.m.

The resolution for the debates with the Northern Society and the Leicester Society will be as follows:—

"That it is both desirable and necessary for the existing Income Tax procedure to be amended as follows:—

- (a) The application of three years' average system to all classes of income.
- (b) The allowance for Depreciation to be a compulsory instead of a discretionary deduction, and to be calculated at uniform rates upon original values.
- (c) The certification by qualified accountants of all returns exceeding £500."

The Union offer three prizes for the best essay on

"The uses and limitations of the Card, Loose-leaf Ledgers, and Slip Systems in relation to matters of account."

The prizes offered are:—

First Prize	..	..	..	..	£5 5s.
Second Prize	..	..	..	..	£2 2s.
Third Prize	..	..	..	..	£1 1s.

(The Rules governing the competition appeared in our issue of October 6th, p. 386.)

Liverpool Chartered Accountants Students' Association.

A DEBATE between the Liverpool and Sheffield Chartered Accountants Students' Societies took place at the Library of the former on the 26th ult., on the following subjects set by the Union of Chartered Accountant Student Societies, viz.:—

- (a) The application of three years' average system to all classes of income.
- (b) The allowance for depreciation to be a compulsory instead of a discretionary deduction, and to be calculated at uniform rates upon original values.

(c) The certification by qualified accountants of all returns exceeding £500.

The members of the Liverpool Association took the affirmative.

After a very interesting and instructive debate, a vote was taken, with the following result:—

- Clause (a) Negative.
- „ (b) Affirmative.
- „ (c) Negative.

A hearty vote of thanks to the Sheffield representatives and the Chairman terminated the meeting.

Review.

Arrears for Gas, &c.

By A. CANNING WILLIAMS, F.C.A.S.

London, 1906: John Allan & Co., 3 Ludgate Circus Buildings, E.C. Price 5s. net.

In view of the fact that this little work comprises only thirty pages and a couple of insets, it seems clear that no very extensive sale is anticipated, and, indeed, none could very well be expected under the circumstances. The author provides, however, a system for dealing with the recovery of arrears which, while presenting no very startlingly novel features, appears to be quite adequate. We must confess, however, that we are somewhat at a loss to understand why it should have been thought necessary to publish this system in book form, as it really contains nothing that any reasonably competent accountant could not readily evolve for himself.

Personal.

MR. JNO. M. MOULSON announces that he has retired from the firm of HARDY, LAWTON & MOULSON, 21 York Street, and has resumed separate practice as a Chartered Accountant at 29 York Street, Sheffield.

WILL.—The will of the late Mr. JOHN SMITH, a member of the firm of WHINNEY, SMITH & WHINNEY, who died on August 31st last, aged 80, has been proved at the gross value of £50,530 18s. 1d. Digitized by Google

Meetings for the ensuing Week.

- Monday** — INSTITUTE OF CHARTERED ACCOUNTANTS.— Examination Committee, at 2 p.m.
- Tuesday** — INSTITUTE OF CHARTERED ACCOUNTANTS. — Applications Committee, at 3 p.m.
- Wednesday** — INSTITUTE OF CHARTERED ACCOUNTANTS.— Finance Committee, at 12.30 p.m.; Council Meeting, at 2 p.m.
- LONDON CHARTERED ACCOUNTANTS STUDENTS' SOCIETY.**—Lecture, "Partnership," by Mr. Leonard Mossop, Barrister-at-Law, at the Hall of the Institute, Moorgate Place; 6 p.m.
- Thursday** — NOTTINGHAM CHARTERED ACCOUNTANTS STUDENTS' SOCIETY.—Joint debate with the Chartered Accountant Students Society of London; subject: "Income Tax."
- LIVERPOOL CHARTERED ACCOUNTANTS STUDENTS' ASSOCIATION.**—Lecture, "Some Notes on Income Tax," by Mr. Roger N. Carter, F.C.A., at the Library, 3 Lord Street; 6 p.m.
- GLASGOW CHARTERED ACCOUNTANTS STUDENTS' SOCIETY.**—Debate, "Has Trade Unionism retarded the Growth of Commerce in Great Britain?" Affirmative: Mr. Chas. S. Forsyth, C.A.; Negative: Mr. R. Kyle Thomson, B.L., C.A.
- Friday** — BRISTOL CHARTERED ACCOUNTANTS STUDENTS' SOCIETY.—Lecture, "Law of Agency and Bailments," at the Library, Albion Chambers; 5.30 p.m.

Boston Consolidated Gas Company.

AN esteemed correspondent has suggested that the recently issued accounts of the above-named company are likely to prove of interest to our British readers. We accordingly reproduce them herewith, although we find it difficult to believe that accounts that entirely omit all mention of the Balance Sheet are representative of the best American methods.

September 20 1906.

James L. Richards, Esq.,
President Boston Consolidated Gas Company,
24 West Street, Boston.

Dear Sir,

In accordance with your instructions we have audited the books and accounts of the Boston Consolidated Gas Company from June 15th 1905, when the company began business, to June 30 1906, the end of the fiscal year, and report thereon as follows:—

Report.

In June 1905 the Boston Consolidated Gas Company took

over the plants and properties of eight gas companies, previously doing business in Boston and vicinity, under the terms of Chapter 421 of the Acts of 1905, which amended Chapter 417 of the Acts of 1903. The new company began business and made the first entries in its books on June 15th 1905, covering the purchase of the properties and the establishment of its Capital Accounts and floating liabilities. We have verified these opening entries in detail by comparing them with the amounts authorised in the records of the stockholders' and directors' meetings, with the closing entries in the books of the eight prior companies, and with the actual cash transactions by which the respective purchases were finally completed. Beginning with the assets and liabilities of the new company thus established, we have verified all of the transactions as set forth in the financial books of the company to the close of the fiscal year, June 30 1906. We have traced all receipts from their sources to their final deposit in bank, have satisfied ourselves of the legitimacy of all payments, and have given particular attention, as requested, to the possibility of the existence of secret funds or hidden payments among these transactions. Our examination, covering as it has all cash received and all disbursements made, has disclosed no such secret funds or payments during the period of our audit.

During the progress of the examination we assured ourselves in regard to the adequacy and accuracy of the book-keeping system now in use, and further investigated carefully to discover whether or not this system was being actually carried out in practice daily and hourly throughout the period, and whether the bookkeeping details were subjected regularly to suitable methods of internal check and audit.

Our examination in all of these respects has been entirely satisfactory, and we are pleased to certify that the present accounting system of the company is exceptionally well designed, and that during the period of our audit it has been admirably conducted, the evident intention of the management having been to set forth intelligently in the books all of the actual transactions promptly, accurately, and honestly.

We were gratified to find that the distributions of the various Expense Accounts and of the various Construction and Improvement Accounts were arranged upon lines which practically coincided with the standard and uniform system now strongly advised for public service corporations and municipal industries throughout the country, and in the schedules submitted herewith we have arranged the "Revenue and Expense" Statement (income and expenditure) upon the standard forms suggested by a committee of the American Association of Public Accountants for all such statements.

The importance of such standard forms, upon which the reports of both municipally operated and privately operated public industries can be cast, is so evident to all who are interested in these matters that it need not be further emphasised here.

In addition to the Revenue Statement, we submit herewith a schedule of the costs of making and distributing gas as called for by Chapter 422 of the Acts of 1906. These statements are given here in consolidated forms; but in a subsidiary report, which we will submit to you within a short time, we have set forth all of these matters in complete detail, together with a Balance Sheet of the assets and liabilities of the company at the close of the fiscal year, June 30 1906, with our comments thereon.

SCHEDULE I. COSTS OF GAS

During the Year ending June 30 1906.

Section three of Chapter 422 of the Acts of 1906 (the Sliding Scale Act) requires that the "company shall annually publish in the month of September, in one or more newspapers published in the City of Boston, a report showing for the previous fiscal year, among other things, the cost per thousand feet to such company of gas in the holder, itemising said cost so as to show the cost per thousand feet for gas manufactured, of wages at works, and of the main items of materials; also the cost per thousand feet of distribution; also the amount per thousand feet, if any, charged as depreciation of ways, works, and machinery; also the amount per thousand feet, if any, charged for maintenance repairs; together with such other items of account as may from time to time be prescribed by the board of gas and electric light commissioners."

STATEMENT OF THE COST OF GAS AS REQUIRED BY THIS ACT.

BOSTON CONSOLIDATED GAS COMPANY.

Gas Purchased during the year	2,262,654,700 cubic feet
Gas Manufactured during the year	1,725,534,000 "
Total	3,988,188,700 "

Manufacture.

Cost in Holder per thousand feet of Gas Manufactured	\$0.3431
Viz.: Wages at Works	\$0.0618
Coal and Coke used in making Gas	.1398
Coal, Coke, &c., used in making Steam	.0352
Enriching Materials	.1445
Purifying Materials	.0023
Water	.0072
Stable, Laboratory, and other Expenses at Works	.0141

Total Operation Expense at Works	\$0.4049
Deduct value of Residuals made	.0883

Net Operation Expense at Works	\$0.3166
Maintenance and Repairs at Works	.0265

Total per thousand feet of Gas manufactured	\$0.3431
---	----------

Purchase.

Cost in Holder per thousand feet of Gas Purchased	\$0.2894
Viz.: Average Purchase Price of Crude Gas	\$0.2303
Purification Expense	.0543

Total Operation Expense	\$0.2846
Maintenance and Repairs for Purifying Plant	.0048

Total per thousand feet of Gas Purchased	\$0.2894
--	----------

Manufacture and Purchase.

Average Cost in Holder per thousand feet of Manufactured and Purchased Gas	\$0.3126
--	----------

Per 1,000 Feet Sold.

Gas sold during year (including a portion of June 1905)	3,929,522,235 cubic feet.
Average Cost in Holder per thousand feet of Gas sold	\$0.3173

Distribution and General Expense.

Viz.: Distribution Wages and Expense	\$0.0412
Maintenance and Repairs	.0431

Total	\$0.0843
Cost of General Expense and Management	.1009
Cost of Taxes and Insurance	.0686

Total of Distribution and General Expense	\$0.2538
---	----------

Maintenance and Repairs.

Amount charged per thousand feet of Gas sold, for Maintenance and Repairs	\$0.0575
---	----------

Viz.: Maintenance and Repairs at Works	\$0.0116
Do. of Mains and Services	.0276
Do. of Meters	.0110
Do. of Distribution Holders	.0045
Do. of Purifying Plant	.0028

Total	\$0.0575
-------------	----------

Total Costs.

Total Costs including Repairs, but excluding Depreciation and other Reserves.

Cost of Manufacture, per thousand feet of Gas sold	\$0.3173
Cost of Distribution, Management and other Expenses	.2538

Total Cost of Gas (excluding Interest, Depreciation and Reserves)	\$0.5711
---	----------

SCHEDULE II.

REVENUE AND EXPENSE

BOSTON CONSOLIDATED GAS COMPANY,

For the Year ending June 30 1906.

Revenue.

Income from Sales of Gas	\$3,378,702.07
Do. do. Electricity	225,135.00
Do. By-Products and other Operating Sources	160,233.59

Total Revenue from Operating	\$3,764,070.66
------------------------------------	----------------

Expense

1. Manufacture of Gas—	
Viz.: Expense of Operating Works	\$821,547.12
Do. Maintaining Works	56,518.86
Cost of Gas Purchased and used	521,158.09
2. Distribution of Gas—	
Viz.: Expense of Operating	161,991.48
Do. Maintaining	169,516.07
3. General Expense and Management of Gas	344,008.48
1. Manufacture of Electricity—	
Viz.: Expense of Operating Works	41,627.87
Do. Maintaining Works	3,509.76
2. Distribution of Electricity—	
Viz.: Expense of Operating	16,132.35
Do. Maintaining	14,131.35
3. General Expense and Management of Electricity	12,003.87
Total 1, 2, and 3	\$2,162,145.30
4. Taxes	272,000.00
5. Franchise Taxes	
6. Rentals, Leaseholds, &c.	
7. Insurance	5,960.00
8. Damages and Legal Expenses	46,878.83
9. Guaranty (Bad Debts written off and Reserve for Doubtful Accounts)	
10. Depreciation (Deterioration written off and Reserve for Estimated Depreciation)	
11. Miscellaneous Incidental Expense	5,380.34

Total Expense, as charged in the books	\$2,492,364.47
--	----------------

Revenue (net) from Operating	1,271,706.19
Do. do. Sources other than Operating	17,257.22

Total Revenue available for Interest, Reserves, Depreciation and Dividends	\$1,288,963.41
--	----------------

Disposition of Available Revenue.

Interest on Notes and Meter Deposits ..	\$10,908.53
Reserved for "Employees' Fund" ..	50,000.00
Dividends	1,209,968.00
Total Interest, Reserves and Dividends	\$1,270,876.53
Credit Balance transferable to Surplus ..	18,086.88

It will be noted that the operations of the year include no charges for Estimated Depreciation of Plant in excess of Repairs, or for extraordinary contingencies other than "Employees' Fund." During the year \$21,587.01 was charged to Profit and Loss on account of Street Mains, &c., abandoned; \$115.49 on account of Expenses of prior years was similarly charged.

CERTIFICATE.

We certify that the statements above set forth, namely, "Costs of Gas" and "Revenue and Expense," have been carefully audited, that the figures given are in agreement with the books of the company, and are in accord with the facts, to the best of our knowledge and belief.

(Signed) HARVEY CHASE & COMPANY,

Brazer Building,
27 State Street, Boston.
September 20 1906.

Members of the "Incorporated Public Accountants of Massachusetts," and of the "American Association of Public Accountants"

ACKNOWLEDGMENT.

COMMONWEALTH OF MASSACHUSETTS.

Suffolk, s.s.

September 20 1906.

Then personally appeared Harvey S. Chase, known to me to be a member of the firm of Harvey Chase & Company, and made oath that the above certificate by him subscribed is true. Before me

(Signed) ARTHUR H. RUSSELL,

Justice of the Peace.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, Oct. 26th, was 170, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 85; Deeds of Arrangement registered, 85. The respective numbers in the corresponding week of last year were: Bankruptcies, 98; Deeds of Arrangement, 75—total, 173; being a decrease of 3. The total number of commercial failures recorded during the 43 weeks of the present year is 6,889; the total number recorded in the corresponding 43 weeks of last year was 7,375, showing a decrease of 486.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, Oct. 26th, was 155. The number in the corresponding week of last year was 178, showing a decrease of 23. The total number filed during the 43 weeks of the present year is 6,307; the total number filed in the corresponding 43 weeks of last year was 6,926, showing a decrease of 619.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, Oct. 26th, amounted to £1,126,222, by way of addition to £1,837,398, previously issued by the same companies. The amount registered in the corresponding week of last year was £1,492,218, showing a decrease of £365,996. The total amount registered during the 43 weeks of the present year was £67,634,378 (in addition to the issues in previous years by the same companies), as compared with £63,790,192 for the corresponding 43 weeks in 1905, showing an increase of £3,844,186.

The Profession in Scotland.

Chartered Accountants of Scotland General Examining Board.

Mr. Richard Brown, the Secretary and Treasurer of the above Board, intimates that the next series of examinations will be conducted at Edinburgh, Glasgow, Aberdeen, and such other places as may be found necessary, on the following dates:—

Preliminary Examination—Saturday, 1st December 1906.

Intermediate Examination—Tuesday, 4th, and Thursday, 6th December 1906.

Final Examination—Tuesday, 4th, Thursday, 6th, and Friday, 7th December 1906.

Intending candidates are required to give in their full names and addresses and make payment of the requisite examination fees to the Secretary of the Society with which they are connected, or to Mr. Brown, not later than 15th November 1906.

Edinburgh Chartered Accountant's Volunteering Record.

The *Edinburgh Gazette* of Tuesday last week contained the following intimation:—"7th Clackmannan and Kinross Volunteer Battalion, Princess Louise's Argyll and Sutherland Highlanders.—Lieutenant-Colonel R. Haig is granted the honorary rank of Colonel; Lieutenant-Colonel and Hon. Colonel R. Haig, on completion of his period of service in command, is retired, with permission to retain his rank and to wear the prescribed uniform; Major J. Craig to be Lieutenant-Colonel, and to command under the conditions of Paragraph 47, Volunteer Regulations."

Lieutenant-Colonel James Craig is a well-known member of the Edinburgh Society of Accountants. In the necessarily limited leisure of a busy professional life he has found time to put in a lot of useful work for the volunteering movement, as the record of his career shows.

He was gazetted to the Queen's Edinburgh Volunteer Brigade Royal Scots as Second Lieutenant in 1887, and as Lieutenant in 1890. Nine years later he was gazetted to the 7th Argyll and Sutherland Highlanders, with the rank of Captain, and in 1902 was promoted to the substantive rank of Major. He passed through the School of Instruction at Glasgow in June 1903, and obtained the Field Officer's Certificate, with special mention. His appointment to the command of the battalion is thus fully deserved, and, moreover, is popular with all ranks.

COURT OF SESSION.

Edinburgh—First Division.

(Before Lords M'LAREN, KINNAR, and PEARSON.)

October 26.

R.N.—Jas. Craig v. Robt. A. Craig.

An interesting question of expenses was disposed of in the action by Robert A. Craig, C.A., 22 York Place, against his brother James Craig, C.A., 27 York Place, Edinburgh. The pursuer sued for three sums—£95, £46, and £1,000. The first two sums were the amount of the expenses incurred by a firm of leather merchants in Edinburgh in defending actions against them by an insolvent debtor, a bootmaker in Leith, and in which actions the defender James Craig, the bootmaker's trustee, was said to be the *dominus litis*. The pursuer was assignee of the firm in these two sums. The third sum sued for was for damages on the ground of the defender's interference and molestation with the pursuer in his business. After a long proof Lord Dundas awarded the pursuer £130 damages and expenses. When the accounts came before the auditor for taxation the auditor disallowed the expenses incurred with respect to the claims against the defender as *dominus litis*, holding that these claims with regard to which the pursuer had been unsuccessful constituted a particular part or branch of the litigation in the sense of the Act of Sederunt. Objection was taken by the pursuer to the auditor's report, and the Lord Ordinary remitted the accounts to the auditor to retax upon the footing that the Lord Ordinary, in his award of damages and expenses, intended that the pursuer should have his expenses, not only in regard to the phases of the case in which he was absolutely successful, but also in regard to the others in which his verdict had been one of not proven, and that the conclusion for the claims against the defender as *dominus litis* did not constitute a particular part or branch of the litigation in the sense of the Act of Sederunt. The defender reclaimed on this point, and also on the general question of expenses.

The Division recalled the judgment of the Lord Ordinary, and approved of the course the auditor had followed in the matter of the expenses relating to the two claims against the defender as *dominus litis*, but did not

interfere with the judgment of the Lord Ordinary with respect to the expenses relating to the direct claim for damages. The reclamer was found entitled to the expenses of the reclaiming note.

Lord M'Laren, who gave the leading opinion, said they should not desire to give any encouragement to appeals upon expenses where in any view of the case they might conclude that these were within the discretion of the Lord Ordinary, because the Judge who had decided the case was in a much better position to deal with the expenses than an ordinary Court of review could possibly be. Accordingly, at an early stage in the discussion he asked counsel to confine the argument to the question of expenses under the first and second conclusions—those against the defender as *dominus litis*—in which there were *prima facie* grounds for saying that the pursuer had completely failed. With regard to the third conclusion, which was for an arbitrary sum of £1,000 damages for wrongful interference with the pursuer's business, that claim was founded upon a number of separate incidents. The Lord Ordinary held two of these incidents proved, and had awarded a sum of damages which was certainly very much less than the sum claimed, but with a general finding for expenses. In doing so the Lord Ordinary had just dealt with the question of expenses in the way that was very frequently followed in actions of damages—that was that where the pursuer only recovered a partial award of damages, but had not proved damage to the amount which he claimed, he was nevertheless entitled to a general finding of expenses. But when they came to consider what was to be done about the expenses applicable to the first and second conclusions they were in a different region of law, because his Lordship was unable to see how those conclusions could be dealt with otherwise than by the machinery of the Act of Sederunt, which provided that where a party had failed on one branch or part of a case the expenses of the part in which he had failed should be disallowed on taxation. In the first and second conclusions the pursuer sued for two specific sums as an assignee of the parties holding the decrees. All would be plain sailing if the pursuer had sought to recover the sums in these decrees from the party who had been found liable in the expenses. But he did not do that. He said that the defender James Craig was the *dominus litis* in these two actions and was bound to pay. The pursuer did not succeed in his attempt to recover these two sums from the defender. It appeared to his Lordship on every ground these must be considered as a branch of the case on which the pursuer had failed, and therefore he was unable to concur with the Lord Ordinary in his application of the law of the case. The first and second conclusions were separate and separable branches of the case, because they were for specific sums of expenses constituted by a decree as distinguished from an arbitrary sum of damages to be assessed by the Court; and therefore the auditor had rightly applied the Act of Sederunt in disallowing these expenses.

The other Judges concurred. 

(Before Lords M'LAREN, KINNEAR, and PEARSON.)

October 24.

R.N.—John Haddow (J. T. Hastie, Trustee) and Joseph J. Dobie and others.*Sequestration—Sequestration Revived—Trustee Sues Bankrupt's Father's Trustees for Count and Reckoning.*

This was a reclaiming note by the pursuer in an action brought by John Haddow, house painter, 25 Garscube Lane, Glasgow, trustee on the sequestrated estate of John Thomas Hastie, ironmonger, Lochmaben, against Joseph Jardine Dobie, 104 High Street, Lockerbie, trustee for the late John Hastie, Bruce Villa, Lochmaben, and John Henderson, agent, Bank of Scotland, Lockerbie, and James Charles Stewart, law clerk, the Mains, Lockerbie, trustees of the late James Stewart, solicitor, Lockerbie. Joseph Jardine Dobie and the late James Stewart were the trustees of the father of John Thomas Hastie. The father died on 6th February 1882, and by his will the son was entitled to the residue of his estate after paying off all the specific legacies. The trustees were also directed to deliver to him several articles of silver plate. The bankrupt's estates were sequestrated on 16th April 1883, and he was discharged on 10th January 1888. On 18th March 1905 the sequestration was revived by an interlocutor of the Court of Session, and the present pursuer was appointed trustee. In this action he claimed count, reckoning, and payment against the father's trustees. Originally a claim was lodged in the sequestration on behalf of the trustees of the father for £944, and the parties agreed to compromise their pecuniary claims against each other, and to this arrangement judicial authority was interponed. In the Outer House Lord Ardwall was of opinion that this arrangement formed a complete answer to any claim for count and reckoning in the present case, and on this part of the case his Lordship assoilzied the defenders. He allowed a proof regarding the articles of silver plate, and reserved the question of expenses.

The Division adhered to the Lord Ordinary's judgment, and gave the defenders the expenses of the reclaiming note. Their Lordships expressed the hope that there would be no further litigation regarding the silver plate.

Society of Accountants and Auditors.

A meeting of the members of the Society of Accountants and Auditors in practice in Edinburgh and district was held on the 26th ult. in Edinburgh, Mr. D. Hill Jack, J.P., Glasgow, in the chair.

Mr. Alexander C. Rutherford, Incorporated Accountant, Glasgow, Secretary of the Scottish Bankruptcy Reform Association, delivered a short address on "Bankruptcy Reform." Mr. Rutherford pointed out that there were no

less than thirteen Acts of Parliament dealing with Scottish bankruptcy law. What was wanted was a Consolidation Act based on the Act of 1856, which was admittedly a masterly piece of legislation. The main points required in any bankruptcy reform, he considered, were:—The reduction of the limit of concurrence to obtain sequestration; dividends to be accelerated; cessio to be abolished; sequestration of small estates to be obtained with a £5 concurrence; and the administration of small estates to be cheapened. Mr. Rutherford advocated the extension of disqualification of the bankrupt where he had not kept books, or his losses had arisen from speculation, extravagance, and reckless trading. Trust deeds and composition arrangement, if acceded to by a majority, should be legalised, and landlord hypothec should be abolished.

Bank Rate of Discount.

April 5th 1906	..	..	..	..	..	..	3½%
May 4th	..	..	..	..	..	..	4%
June 21st	..	..	..	..	..	..	3½%
Sept. 13th	..	..	..	..	..	..	4%
Oct. 11th	..	..	..	..	..	..	5%
Oct. 19th	..	..	..	..	..	..	6%

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TABLE "A."

A reprint of the new Regulations
for the Management of a Company
Limited by Shares.

GEE & CO., Publishers, 34 Moorgate Street, E.C.

Leading Articles.

The Subsequent Earnings of a Bankrupt.

THE decision recently given by His Honour
Judge BOMPAS, K.C., in the Bradford
County Court in the case of *Re Roberts*, appears
to be of far-reaching importance, and accord-
ingly is well worthy of the careful attention of
those of our readers who are interested in
bankruptcy matters.

This was an application by the Official
Receiver, as trustee in the bankruptcy, for an
order that part of the earnings of the bankrupt

be handed over to him for the benefit of creditors. The application was under Section 53 of the Bankruptcy Act, 1883, Sub-section 1 of which enables the Court, under certain circumstances, to direct that the trustee shall receive, for distribution among the creditors, so much of the pay or salary received by a bankrupt who is an officer of the army or navy, or an officer or clerk, or otherwise employed or engaged in the Civil Service of the Crown, as the Court may direct. Sub-section 2 provides that "where the bankrupt is in the receipt of a "salary or income other than the aforesaid, or "is entitled to any half-pay or pension, or to any "compensation granted by the Treasury, the "Court, on the application of the trustee, shall "from time to time make such order as it thinks "just for the payment of the salary, income, "half-pay, pension, or compensation, or any "part thereof, to the trustee, to be applied by "him in such manner as the Court may "direct." The bankrupt in the case now before us was a fish-salesman earning 28s. per week, paid weekly, and liable to a week's notice to terminate his employment, and the question that arose was as to whether Section 53 (2) applied under these circumstances.

On behalf of the bankrupt it was argued that the amount received by him was the wages of a workman, and that the case was governed by *Re Jones* (60 L.J., Q.B. 752), where Mr. Justice CAVE decided that the wage of a workman was not "salary or income" within the meaning of the section. It was further contended that the bankrupt's liability to be dismissed at a week's notice gave an element of contingency and uncertainty to his earnings which brought them within the ruling *Re Hutton* (54 L.J., Q.B. 54), where Lord Justice COTTON held that Sub-section 2

related to income of a similar kind to that indicated in Sub-section 1, and did not apply to contingent or possible income.

On the other hand, the Official Receiver relied upon the decision of Lord Justice FRY in *Re Shine* (61 L.J., Q.B. 253), that where money was received by a bankrupt for services rendered under some contract, or appointment, at a rate computed by time, and payable at a fixed time, it was to be regarded as salary. He further argued that the decision *re Hutton* did not apply, because the earnings in that case were analogous to the fees of a professional man, without regularity of payment or of account. The *dictum* of Mr. Justice CAVE in *Re Jones*, he contended, was not necessary to the decision, and was therefore a mere *obiter dictum*.

After some hesitation his Honour decided that this case was governed by the ruling in *Re Shine*, and he accordingly made an order for the payment of £1 per month to the Official Receiver as trustee for distribution among the creditors in the bankruptcy. It would probably take a lawyer to explain why a salesman at a weekly salary is to be called upon to part with some portion of his income of but 28s. a week, when it has already been decided that a working collier, earning probably more than twice as much, escapes altogether from the operation of Section 53; and indeed the decision seems to be entirely at variance with what we have always understood to be the generally accepted rule, that the subsequent earnings of a bankrupt not in Crown employ can only be attached when they exceed a sum reasonably sufficient for the maintenance of himself and family.

Municipal Audits and Officialism.

THE information contained in the letter from Mr. C. E. DOVEY, F.C.A., which appeared in our last week's issue, is of considerable interest to our readers—more especially, of course, to those who, like our correspondent, are professional auditors to municipal corporations.

It will doubtless not be very long before we learn definitely whether the present Government intends to bring in a measure compelling the audit by officials of the accounts of all municipal authorities by a Local Government auditor on the recommendation of the President of the Local Government Board, or on the recommendation of the Departmental Committee on Local Authorities Accounts, which, so far as we are aware, has not yet completed its report. It will be remembered that the question of audit was not referred to this Committee, but it does not on that account necessarily follow that no reference to the subject will be included among its recommendations. In view of what Mr. DOVEY tells us, however, it would seem more probable that the question of audit was not referred to the Committee *because* the Department had already made up its mind how to deal with the matter.

Even supposing that the Government's intentions are correctly reported, we do not think that there is much ground for serious apprehension on the part of those who, like our correspondent, are already professional auditors to municipal corporations. Their present appointments are outside the existing statutory regulations, the municipalities having found it essential to employ professional auditors because the statutory audit does not

provide them with the safeguard they require. There can be little doubt that, were the typical official audit substituted for the elective audit, they would still not have what they require—namely, a thorough and impartial revision of their accounts by an independent expert. It thus seems quite reasonable to assume that municipalities, which have already shown themselves sufficiently enlightened to appreciate the importance of an effective audit, would not be misled by any alteration of the existing statutory provisions into assuming that, because the Local Government Board takes the matter in hand, it will do so in a manner sufficient to satisfy all their necessary requirements. The Local Government Board audit of the accounts of municipal corporations would, there can be little doubt, be practically identical with the Local Government Board audit of county councils, borough councils, and other local authorities; that is to say, no real audit of accounts at all, but merely an official scrutiny of the legality of expenditure incurred. That there is scope for such an inquiry we for our part have always conceded; but no one sufficiently enlightened to employ professional auditors is, we think, seriously likely to be misled into assuming that any official audit can take its place.

There is, however, another aspect of the matter which, although it does not very greatly concern the profession as such, will certainly have to be taken into account by the Government, and that is the opposition of municipalities themselves to any extension of the powers of supervision exercised by the Local Government Board. Our readers will remember the storm of opposition that was aroused by the audit clauses in the Education Act of 1902,

and that this opposition was only partially stayed by the most circumstantial assurances that it was not intended to represent "the thin edge of the wedge," and the first move towards an official audit of the whole of the accounts of municipal authorities. The present Government may, of course, claim that it is not bound by the assurances of its predecessors in that respect; but such a contention will not of itself remove an opposition which can hardly fail to be extremely influential, in that members of Parliament throughout the country would be practically bound to support their respective municipalities in the matter. Moreover, the results of the recent local elections exhibit an awakened interest in local matters which cannot in reason be altogether overlooked. It is clear that local government is, for the time being at least, no longer to be left to the control of a minority which favours all forms of officialism. One of the "planks" of the platform of the Municipal Reform party was the professional audit of the accounts of local authorities, and the recent success of that party at the polls thus makes the present moment singularly inopportune for the introduction of a Bill designed to take the audit of municipal corporation accounts out of the hands of professional accountants, and to hand it over to officials (who are not accountants) appointed by the Local Government Board.

Reserve Funds and Reserves.

THE letter from Mr. JOHN BROWN, which we reproduced in our Correspondence column last week, revives an interesting controversy. With his concluding remarks—as to the confusion that necessarily results from divergencies of opinion between acknowledged authorities

as to the exact significance to be attached to technical expressions in ordinary everyday use—we are, of course, in entire agreement; it is, nevertheless, notorious that there are points upon which there are at present differences (and legitimate differences) of opinion; and until—if ever—the time comes when, as a result of a conference specially convened for that purpose, we are provided with a recognised code of definitions, such divergencies of opinion are, it seems to us, likely to continue.

For our own part, however, we think that the battle which has been fought round the question as to what is and what is not a Reserve Fund to a very large extent represents energy wasted. It is admitted upon all hands that the term "Reserve Fund" ought only to be employed as designating undivided profits, which *pro tanto* strengthen the financial position of the undertaking, forming (as Mr. T. A. WELTON, F.C.A., has put it) a "first line of defence." It is also admitted, we believe upon all hands, that the term "Reserve" may be properly applied to the credit balance of an account built up to compensate for the fact that certain assets represented by debit Ledger balances are depreciating in value. Among others, the late Mr. A. A. JAMES, F.C.A., expressly advocated that provision for the depreciation of such assets as Goodwill, Patents, and the like should be thus treated, rather than by writing down the book value of the assets themselves. It is thus clear that primarily a Reserve Fund represents undivided profits, and that a Reserve represents a provision for expected or acknowledged losses.

If the terms were always applied in these connections there would be no possibility of confusion or misunderstanding of any description; but it so happens that shortly after the

failure of the Liberator Building Society and its kindred group of Jabez Balfour Companies there was an outcry against what were called "unavailable" Reserves, and then (we believe for the first time) was enunciated the proposition that the expression "Reserve Fund" ought never to be used save in cases where there were to represent it moneys invested outside the business available to be employed in cases of emergency. Those who thus sought to limit the term "Reserve Fund" to undivided profits invested outside the business—heedless of the consequences of grouping together under one term undivided profits employed in the business as working capital and provisions for admitted or expected losses—appear to have laboured under the delusion that it was physically possible for a company, having once made and reserved a profit, to ensure the continuous existence of that profit for ever afterwards. Mr. WELTON exposed the fatuity of this argument in a letter to *The Times*, which we reproduced in our issue of the 18th August 1894, when he said that "to suppose that any "Reserve analogous to NAPOLEON'S Old Guard "can be created, the use of which is optional, "and which must be kept outside the tug-of-war until the last extremity, and then apparently should only be used if some wonderful "benefit can be obtained for the shareholders, "is, I think, chimerical."

Whether or not assets to an extent equalling the amount of profits reserved have been invested outside the business, it must be admitted that the amount of undivided profits belonging to a company from time to time must be dependent upon the success attending its management. If the company be carried on at a loss, these undivided profits must inevitably vanish in the

course of time, and that whether or not the original investment which was at one time supposed to represent them remains unrealised. The shape that a company's assets may from time to time assume has no connection whatever with its financial position, or the amount of its undivided profits. It will thus be seen that all attempts to distinguish between a "real" (or available) Reserve Fund, and an "unreal" Reserve—and to confine the term "Reserve Fund" to the former, quite irrespective of the confusion caused by leaving the latter to be classed along with provisions for losses—are, and must be, "chimerical." For all practical purposes Mr. F. W. PIXLEY, F.C.A., has, it seems to us, admitted this much when he states, in his "Auditors," that the term "Reserve Fund" might, perhaps, be properly used if some of the Stock used in the ordinary course of the business were specially set aside, and when made use of represented by cash set aside until reinvested in further stocks specially earmarked. It is difficult to see how in practice any portion of the stock-in-trade of an undertaking could be conveniently earmarked in the manner indicated; but, inasmuch as the assets of a company must in all cases greatly exceed the amount of its Reserve Fund, there can never be any serious difficulty (other than the practical one) in earmarking sufficient assets to make the term "Reserve Fund" properly applicable, even upon the definition provided by Mr. PIXLEY. We prefer, however, to regard this qualification of his as a tacit admission that, so long as there are assets really in existence capable of being indicated as the assets representing the Reserve Fund, the term is properly employed. For our own part we like, however, to adopt a stricter view, and to maintain

that the reality of the Reserve Fund depends *not* upon the existence of specific assets, but upon the maintenance of an excess of assets over liabilities sufficient to enable it to be truthfully represented that the undivided profits which have been set aside have not been frittered away in subsequent losses.

Undivided profits, by whatever name they may be known, constitute, as Mr. WELTON has put it, a first line of defence, but can never occupy a position analogous to that of NAPOLEON'S Old Guard. The question, therefore, of the precise nature of the assets which from time to time represent them is, we think, a matter of administrative detail rather than a matter of principle. The amount of the surplus of assets over liabilities is the crux of the whole matter, rather than the readily realisable nature of individual assets. It goes without saying that, under normal circumstances, a company owning investments would naturally, and indeed very properly, realise those investments in time of stress, holding the view that it was for that very purpose that the investments were originally made. Even, therefore, supposing a company at one point of its existence possessed considerable investments which purported to "represent" its Reserve Fund, neither creditors nor shareholders could have any assurance that in the event of the company's subsequent failure those investments would be found intact; indeed, if they were reasonable business men, they would very naturally assume the contrary. But for what it may be worth—and even admitting, for the sake of argument, that a Reserve Fund invested outside the business is more "real" than a Reserve Fund invested in the business itself—we may point out that in any properly constructed Balance Sheet there is not the least difficulty in ascertaining whether or not the

Reserve Fund is so invested; and that, therefore, the employment of the same term "Reserve Fund" to indicate all undivided profits, whether invested outside the business or in the business itself, can give rise to no misapprehension in the minds of those sufficiently acquainted with accounts to be able to derive any definite impression from the perusal of a Balance Sheet.

On the other hand, great confusion would arise through the employment of the same term "Reserves" to designate undivided profits invested in the business, and provisions for admitted or expected losses. That being so, we think it likely that the majority of companies employing their Reserve Fund for purposes other than investment outside will continue to describe them as Reserve Funds, leaving it for the purists who can find no use for undivided profits in their business, and who invest them outside, to claim that the term can only be properly employed under those circumstances which meet their peculiar case. As we have already pointed out, however, the whole thing strikes us as being something in the nature of a storm in a tea-cup, in that the reality or the unreality of a Reserve Fund does not in any way depend upon the possession of a limited quantity of readily realisable stocks or shares, but upon the maintenance of a surplus of assets over liabilities sufficient to demonstrate the fact that the profits reserved are still in existence. A company which has good assets can under any ordinary circumstances raise money upon them in case of need almost as easily as upon trustee securities; but, of course, in exceptional cases, where the profits have been set aside for a specific purpose, the desirability of having "gilt-edged" securities which can be sold, or borrowed upon at a narrow margin, is sufficiently obvious to render

the investment of reserved profits highly desirable. The question is, however, as we have already stated, entirely one of practical administration, and not one of principle. The indiscriminate classing together of non-invested profits and provisions for losses is, on the other hand, a fatal error of principle, and accounts which fail to distinguish between these two all-important things of necessity fail to disclose the true position of affairs. It would, doubtless, save a good deal of trouble and confusion if a third name were to be found for non-invested profits reserved. But, inasmuch as the presence or absence of investments can be readily ascertained from any properly constructed Balance Sheet, the point seems of no practical importance—more especially because, as has been pointed out, the investments may continue to exist although the undivided profits are lost, while *per contra* the undivided profits may still remain, although a specific investment (or any other single asset belonging to the company) may turn out to be entirely valueless. If any real and vital connection could be established between the investment and the Reserve Fund, a much stronger case would be made out in favour of applying a distinctive term to reserved profits so dealt with.

Weekly Notes.

Interest on "Capital" during Construction. Attention may be called to the case of *Hinds v. The Buenos Ayres Grand National Tramways Company, Lim.*, which deals with a rather interesting point. The facts, as reported, were, briefly: An issue of debentures had been made by the company with interest dependent on profits. Money had also been borrowed for construction purposes, and it was proposed to charge to capital interest on this money on the basis of the estimated cost per mile up to completion, and thenceforward to revenue. Objection was taken by a shareholder on

the ground of *ultra vires*, presumably also having in view the peculiar conditions attaching to the interest on the debentures, but the action was dismissed. The point has long been decided that interest on share capital, as distinct from loan "capital," cannot, save where statutory power has been taken, be paid during construction of works, and therefore, perhaps, no new problem has been raised, but the facts render the case instructive.

The Congestion of *The Solicitors' Journal* is not inclined to accept the "conclusion of some of the newspapers" that the present congested state of legal business, as compared with the beginning of the Michaelmas Sittings 1905, is proof positive that the profession is in a more flourishing condition. Our contemporary goes on to say:—

"We ought first to know how many of the causes standing in the lists have been carried over from last year. Anyone with an account at a bank in which a larger sum was brought forward at the beginning of the year than in previous years would do well to take this fact into account when he had to consider at the end of the year whether his income had really increased. To put the matter briefly, How many causes in the lists are old and how many new causes?"

This contention is, no doubt, quite sound, but—and it is a very big "but"—we *did* hope that the Bank Pass-Book Income and Expenditure Account had been killed years ago.

Licence Compensation. As a pendant to Mr. W. C. Northcott's interesting paper on "Compensation under the Licensing Act, 1904," which appeared in our last issue, may be noted the case of *Noakes v. Noakes & Co., Lim.* The question originally arose as to the manner in which compensation, which had been paid for the extinction of a licence, should be dealt with where debentures existed having a floating charge as well as a trust deed by way of security. It had been previously held that the trustees under their deed were entitled to receive the money in their capacity as mortgagees, but since their full rights as such had not matured they could not use it, this privilege being still in the company. In this case a further point arose as to whether the trustees for the debenture-holders could invest the amount payable as compensation in other licensed property, or were obliged to deal with it in the purchase of ordinary trust investments. Mr. Justice Neville decided in favour of the former alternative.

**Post Office
Savings Bank
and Consols.**

Sir Howard Vincent has given notice that he intends to ask the Chancellor of the Exchequer in the House of Commons if, having regard to the loss of investors in Consols purchased through the Post Office Savings Bank, and to the fact that there is no indication in the general information contained in the Pass Books issued to depositors that Government stock is subject to such fluctuation and depreciation, he will cause the rules to be amended in this respect, and consider whether a Departmental or other Committee could with advantage be appointed to consider the effect of such loss upon national thrift, and whether something could not be devised to steady deposits by the industrial classes, as in France and Germany.

**Chartered
Institute of
Secretaries.**

The report of the Council of the Chartered Institute of Secretaries for the year ended 31st August last, submitted at the meeting held on the 6th inst., states that during the year 726 members have been elected, and 89 Associates have been promoted to Fellowships. The number on the Register at 31st August 1906 was 3,232.

The Gold Reserve.

Referring to the question of the Bank of England's gold reserve, a director of a group of mining companies makes the suggestion that the Bank should secure a first call from mining concerns upon the gold they import, instead of competing for it in the open market. It is said that if the Bank authorities were willing to credit such gold to Current Account, not Deposit Account, and grant thereon interest at $1\frac{1}{2}$ per cent. under bank rate, the group over which this director presides would probably be agreeable to grant the call. A financial contemporary adds that at present the Bank and one other firm adhere to the fixed rate for gold purchases, but most other concerns frequently go privately to the mining companies, and, by paying a fraction more than the bank price, are able to obtain what bullion they want. This seems to be a very simple point, and it will probably add interest to the discussion which is bound to ensue.

**Revised
Regulations for
Post Cards.**

The following alterations in the regulations respecting post cards came into force on the 1st inst. Minimum size for post cards will be 4 inches in length by $2\frac{1}{2}$ inches in width. Stamps may be affixed on the correspondence

side without surcharge, and in future it will be permissible to attach to a post card a gummed label, not exceeding 2 inches by $\frac{3}{4}$ of an inch, bearing the name and address of the sender, while drawings, &c., on very thin paper, provided they are completely adherent, may be attached to the card either on the back or the left-hand portion of the address side. These new regulations apply to places in the United Kingdom, the Colonies, and foreign countries, but it is stated that no guarantee can at present be given that the same privileges will be allowed by the post offices of other countries, although there is reason to believe they will do so.

**A "Secret
Commissions"
Vigilance
Association.**

Earl Fortescue presided at a meeting, held last week at the Cannon Street Hotel, to consider the subject of Secret Commissions. It was decided to form an association to promote the enforcement of the provisions of the Prevention of Corruption Act, 1906, which, it will be remembered, comes into force on the 1st January next, and to bring to the notice of traders and public bodies the requirements of the law, in the hope that this will have the effect of preventing and minimising the evils due to the prevalence of illicit commissions. It is understood that a public meeting will be convened shortly in London, when the Act will be fully explained. A Provisional Committee—consisting of Earl Fortescue and Messrs. David Howard (Vice-President of the London Chamber of Commerce and Chairman of the Secret Commissions Committee), J. Innes Rogers (Vice-President of the London Chamber of Commerce, Chairman of Joseph Travers & Sons, Lim.), J. W. Hope (John Knight & Sons, Lim.), E. H. Howell (John Howell & Co., Lim.), W. C. Jackson (Messrs. Jackson, Pixley, Husey & Co.), R. L. Barclay, Hal Williams, and others—was appointed, with power to add to its number. The present Secretary is Mr. A. E. W. Gwyn, and the movement is being directed from 3 Laurence Pountney Hill, Cannon Street, E.C.

**Secret
Commissions.
Effect of Act.**

According to *The Financial News* the recently passed Prevention of Corruption Act will hit financial introductions where a commission is paid to the introducer, and probably also the "half-commission man." Taking the question of introductions first, it seems to us that unless the introducer accepts a commission from both sides—in itself a manifestly

improper proceeding unless there be a full disclosure to both sides — the Act does not come within measurable distance of affecting existing practice. If a man is asked to introduce capital into a concern, or to find a suitable investment for capital, it is, we should imagine, entirely reasonable to suppose that it is not necessary for that man to explain to those who come to him for assistance that he does not carry on such business for the benefit of his health, as the Americans say, but as a means of livelihood. We very much question, therefore, whether the receiving of a commission under such circumstances can be regarded as secret: certainly it could not be regarded as corrupt *per se*. But, on the other hand, if one party agrees to pay the introducer a commission for his services, he is reasonably entitled to consider that he has employed the introducer to act for him, and under such circumstances the acceptance of a commission by the other side would, we think, very properly be regarded as corrupt. With regard to the half-commission man, a man regularly employed in a broker's office can clearly be remunerated by that broker in any way that he may think fit, and the half-commission basis is just as legal and just as proper in every way as a fixed salary. We are very much more doubtful, however, of the position of the man mixing in society whose connection with a broker's office is entirely unknown to his friends, and who makes use of his social position to give his friends apparently disinterested advice in the hope of being able to obtain a secret commission in the event of that advice being acted upon. It remains to be seen what view the Courts would take with regard to commissions paid by brokers to "decoy ducks," but if it should be decided that such commissions come within the four corners of the Act, it would, we think, be quite one of the strongest testimonials that could be found in favour of the measure.

What is a Balance Sheet? We are continually pointing out that the average person, wherever he can see two figures side by side, or even if they be one above another, is inclined to dub the result a "Balance Sheet." The latest instance may be found in *The Tribune*, in the course of an article on the unemployable. The writer is contrasting the difference between maintenance in a workhouse and under the colony system. He says:—

"It takes about six months, though sometimes very much longer, to turn a wastrel into an agricultural labourer sufficiently skilled to be acceptable to the

Canadian farmer. But the board of guardians responsible for his maintenance has, of course, to pay for his passage, his outfit, and his railway fare before he can earn his living on an Ontario farm. That costs about £10, and the Balance Sheet for the whole transaction works out approximately thus:—

<i>Debtor.</i>		£	s	d
Six months at Lingfield at 10s. 6d. a week	..	12	12	0
Passage, outfit, and fare	.. ..	10	0	0
Balance saved to the public	.. ..	223	8	0
		<u>£246 0 0</u>		

<i>Creditor.</i>		£	s	d
Six months in workhouse at 5s. a week	..	6	0	0
Maintenance in workhouse or prison for rest of life, say twenty years	.. ..	240	0	0
		<u>£246 0 0</u>		

Our only wonder is that some up-to-date (?) journalist does not call the multiplication tables a Balance Sheet.

The Committee on The fifteenth meeting of the Bankruptcy Law. ruptcy Law Amendment Committee was recently held at the Royal Courts of Justice. Sixteen witnesses, most of them representative of important bodies and associations, have been examined, and at the last meeting various communications and suggestions received by the Committee came up for consideration. As yet, however, no indication has been allowed to transpire as to the opinions formed by the Committee, either collectively or individually, and at this stage speculation upon the point appears to be entirely valueless. We know, of course, that the Board of Trade has put before the Committee what it regards as strong evidence in favour of an extension of officialism, but it yet remains to be seen whether that evidence has been regarded as anything approaching conclusive.

The Law Society. The lectures and classes of the Law Society for the fourth term of the current year commenced on Wednesday last. Among the special courses provided upon this occasion we observe that there will be a series of lectures by Professor Lawrence R. Dicksee, M.Com., F.C.A., on Accounts and Bookkeeping for Solicitors, designed to provide senior students with an insight into the principles upon which all systems of account are founded, and the practical application of those principles to business and professional accounts.

**Bankruptcy
Statistics.**

The letter signed "Nox," which appeared in our last issue, is of considerable interest, suggesting as it does that the accounts of Official Receivers as trustees in bankruptcy are framed with a view to the subsequent compilation of statistics favourable to officialism, whereas the accounts of non-official trustees are liable to be altered so as to make them correspondingly unfavourable to non-official trusteeships. It is to be feared that there can be little doubt that there are good grounds for suspicion on this account, and indeed so long as statistics are compiled by those who naturally have a bias in one direction or another, it is clear that their practical value can be but of the slightest. Everyone who has the least acquaintance with statistics is well aware that they can be made to prove practically anything. It is only when they are being compiled by the scientific searcher after truth, rather than the advocate seeking evidence to support a particular pet theory, that they are entitled to be regarded seriously. Biased statistics must always be actively misleading, and moreover an absolute waste of money from the general public's point of view.

**The Income Tax
Committee.**

We do not quite understand how it is that so many rumours are prevalent with regard to the views of the Select Committee of the House of Commons on Income Tax. It would almost appear as if there must be some leakage, for it is certainly unusual for these matters to become more or less public knowledge before a Committee's report has been approved. But, however that may be, we are now informed that considerable divergence of opinion has been evidenced on the discussion of the draft report submitted by Sir Charles Dilke, the chairman of the Committee, and that there is but little likelihood of anything being unanimously agreed to. In view of the inherent difficulties of formulating a practicable scheme of graduated income-tax, this seems extremely probable.

**Auditors'
Certificates and
Reports.**

At an adjourned hearing at Bow Street Police Court of the charges against Mr. S. G. Massey in connection with the recent failure of the Economic Bank, Lim., it was stated by a witness from the Official Receiver's office that on the 7th January 1904 there was a depreciation of about five thousand pounds on the securities held by the bank. The auditors passed the Balance

Sheet in which £55,459 was entered as being the amount on deposit with the Financial Bank. Of that sum, however, £36,859 was the subject of a special report in which the auditors drew the attention of the directors and shareholders to the fact that they had grave doubts as to whether the transactions represented by that sum were permitted by the memorandum and articles of association. They questioned whether that £36,859 could be treated as a deposit. Witness added that this Balance Sheet was passed at a meeting of shareholders. It would be interesting, as bearing upon the discussion of the most suitable form of wording for certificates appended to the foot of published Balance Sheets, to see the exact form of wording employed by the auditors in their certificate.

**The State of
Legal Business.**

That the Courts are taking no very exceptional steps to clear up the almost unprecedented accumulation of arrears with which the present term opened is evident from the fact that Saturday sittings are becoming more than ever exceptional, and it is even rumoured that the Judges are in favour of their entire abolition. Whether or not this is a counter-move to the public demand for a shortening of the Long Vacation, we cannot, of course, say; but while the entire abolition of Saturday sittings would undoubtedly be more convenient than the present practice, under which no one knows until the last minute whether or not any particular Court will sit on the Saturday, it is clear that when arrears are unprecedentedly heavy, in spite of the fact that legal business is itself unusually low, it is hardly the time for the Courts to shorten their working hours.

**A Borough
Treasurer and the
L.G.B. Audit.**

Some little difficulty is reported to have arisen in connection with the Local Government Board audit of the education accounts of the borough of East Ham. The Borough Treasurer is said to have appeared before the Local Government Board auditor and refused to sign the statutory declaration as to the correctness of the accounts. Mr. Fry contended that his signature to the accounts should be considered a reasonable declaration, but the auditor did not agree with this view, and stated he would have to proceed in the matter. It may be pointed out that the auditor's demand for a declaration was based upon Section 247 of the Public Health Act, which states that an auditor may require any person holding or accountable for such

books to appear before him and make and sign a declaration as to the correctness of the same. According to *The Municipal Journal*, when seen afterwards by a press representative Mr. Fry made it quite clear that he had nothing to hide. He argued that this section was only intended to apply to those cases where a public auditor had reason to believe that false statements of account had been presented, or that some of them were incorrect. What he objected to was the assumption, which appeared to dominate the action of some Government officials, that all public officials were rogues. There may, of course, be much at the back of this with which we are not familiar, or of which we are not cognisant; but, so far as the facts have been reported, we do not quite understand Mr. Fry's objections to make a declaration, for if the accounts are correct there does not seem to be any very great reason why he should not declare the fact. Perhaps some of the parties interested may care to give us a little more information, so that the matter may be discussed, because it may ultimately turn out that the point is really an important one.

Current Law.

In Re Bates ; Hodgson v. Bates. Kekewich, J.

Held, that where a testator leaves his estate in trust, subject to a life interest, with power for the trustees to retain any investments for such period as they may think proper, the income derived from a hazardous security does not necessarily come under the rule in *Howe v. Lord Dartmouth*.—(*Times*, Nov. 2.)

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

Income Tax: Interest on Bank Overdrafts.

(*To the Editor of The Accountant.*)

SIR,—A limited company, in the course of business some years ago, found it necessary to raise an overdraft with its bankers, this overdraft up to a fixed amount being secured by floating debentures on the company's assets. The original amount has always been treated as an overdraft by the bank, is constantly varying, also the company has been urged to reduce same. The interest is charged by the bank direct to the debit of

the company's account without deduction of tax, and the bank state that the amount is included in their Profit and Loss Account.

"Murray & Carter," 3rd Ed. p. 208, mention the case of a trader where bank interest was allowed, and I should be obliged if you would give your opinion as to whether the interest on the above overdraft is a proper deduction from the profit in arriving at the correct assessment, as the Surveyor contends that the amount is a loan, and tax should be deducted on payment of interest, which, of course, is not paid, but charged direct.

Yours faithfully,

31st October 1906.

BURGH.

How to Read a Balance Sheet.

(*To the Editor of The Accountant.*)

SIR,—In the paper I read to the Glasgow Chartered Accountants Students' Society on the 22nd inst., and reported in your issue of last Saturday, I find that in going through the proofs I omitted to notice a somewhat important error. On line 19 in the first column of p. 515 the word "definition" should read "distinction."

I am, Sir, your obedient servant,

FRANCIS W. PIXLEY.

London, 31st October 1906.

The Chartered Accountants' Golf Club.

"WORLD OF GOLF" £100 FOURSOME AT WALTON HEATH ON 20TH NOVEMBER 1906.

(*To the Editor of The Accountant.*)

SIR,—It may be of interest to members of the above club to know that *The World of Golf* has made arrangements with the South-Eastern and Chatham Railway to run a special express train from Charing Cross Station, calling at Waterloo Junction and London Bridge, to Tadworth. Special cheap tickets at 2s. 10d. first-class can be obtained, but, as the supply is limited, applications for these tickets should be made as early as possible to the offices of *The World of Golf*, 28 Paternoster Row, E.C.

The train will arrive at Walton Heath in time for the start of play, and will depart at the close of the match.

Yours faithfully,

DANIEL HILL, JUNR.,

Hon. Sec.

St. Margarets-on-Thames, 3rd November 1906.

Bookkeeping for Electrical Power Companies.*(To the Editor of The Accountant.)*

SIR,—I am desirous of obtaining an accounting book which gives a good idea of all books, forms, and accounts usually kept by large electrical power companies; and if you could put me in the way of my getting same, I should feel greatly obliged to you.

Yours faithfully,

3rd November 1906.

A. C.

Oriental and Audits.*(To the Editor of The Accountant.)*

SIR,—I see that you are devoting a portion of your columns to things Indian.

May I offer you the enclosed report of a meeting called for the purpose of an audit of Church Accounts in this city. It is taken from to-day's *Englishman*.

I may remark that some incidents in the proceedings as reported are quite unusual at meetings of Church auditors specially convened for the purpose of the investigation and passing of Church Accounts in Calcutta.

Yours faithfully,

WILMOT CORFIELD.

Calcutta, 9th October 1906.

"A riot of serious proportions occurred on Sunday afternoon in Blackburn's Lane among some 200 Chinese, armed with knives and lathies, over a dispute relating to Chinese Church funds. Several were so severely injured as to necessitate their removal to the Medical College Hospital, where the condition of some of them is said to be precarious.

"It seems that some of the members of the Chinese Club at No. 22 Blackburn's Lane were not satisfied with the accounts as shown by the Secretary. They accordingly communicated with some of the members at Rangoon, asking them to depute men to proceed to Calcutta to audit the accounts in question. Sunday was fixed for the auditing in the Chinese Church premises. Between 2 and 3 p.m. during the proceedings one of the Calcutta members, who had asked for the Rangoon men, gave what appears to have been a pre-arranged signal by the sudden breaking of a teapot. Immediately about 150 armed Chinese appeared on the scene, and began savagely assaulting 30 or 40 unarmed Chinese.

"The riot assumed very serious proportions, attracting a large crowd of spectators, and the excitement ran fever high. The consequences would have certainly proved disastrous had it not been for the timely arrival of Inspector A. Rahim, with a posse of policemen, followed by Superintendent Merriman. On the approach of the police the rioters fled. Five Chinamen, alleged to be implicated, were arrested. About 11 or

12 men were found lying on the ground with serious injuries, necessitating their removal to hospital, where they are detained under treatment. The injured men include an East Indian named D'Cruz, who used to keep the club accounts on behalf of the Secretary. His condition is reported to be precarious. The accused will shortly be placed on their trial."

A Question of Account.*(To the Editor of The Accountant.)*

SIR,—Will you or any of your readers give an opinion as to the best method of treating the following question in the books of a limited company:—

A college (run as a profit-earning concern) situate in a remote country district erect their own water-works, for the purpose of supplying water to the institution, at a cost of £500.

The contractors complete the work and the cost (£500) has been credited to their account in the Ledger, and the asset stands to the debit of Water-works Account.

The contractors were not paid for the erection until a director generously sent a cheque to them in full discharge of the liability, at the same time informing the company of his action, and that the payment is a presentation to the college.

It will thus be seen that no money has passed between the institution and the contractors, but in recognition of the gift the donor wishes the item to appear on the face of the Balance Sheet.

Yours faithfully,

INTER VIVOS.

[Without seeing the usual form of published accounts it is impossible to say how this transaction would best be treated, but there is no difficulty whatever in recording the obvious facts.—Ed. Acct.]

Institute Examinations and Publication of Results.*(To the Editor of The Accountant.)*

SIR,—May I call attention through your columns to the length of time (a period of about seven weeks' prolonged anxiety) which elapses between the examinations of the Institute of Chartered Accountants and the time when the results of such examinations are made known to the candidates. Any alteration in the date of notification of the results which would tend, however little, to shorten this period of suspense would, I am sure, be much welcomed by all concerned.

Yours faithfully,

3rd November 1906.

Digitized by INTERMEDIATE.

Partners' Capital.*(To the Editor of The Accountant.)*

SIR,—In the majority of text-books upon bookkeeping I find that capital is defined as the surplus of assets over liabilities. In works upon political economy capital is defined as wealth invested in trade or manufactures, as distinct from the income or interest derived from such investment. It is quite clear that these two definitions are consistent only at the commencement of a business before any profits have accrued. The definition used by political economists is evidently the one which is generally accepted outside the accountancy profession, as evidenced by the fact that the Legislature, in dealing with matters of account (*e.g.*, in the Joint Stock Companies Acts), has always clearly differentiated between capital and revenue. I shall be very glad if any of your readers can tell me how the accountants' definition of capital was first originated.

The point is of considerable importance in dealing with Partnership Accounts. I find that there is a practice among some accountants to credit the Capital Accounts of partners with interest on capital and with the share of profits, to debit the drawings for the year to the same account, and to then carry down the balance. Upon the amount of this balance they calculate the interest upon capital for the ensuing year, in spite of the fact that a strict interpretation of the partnership deed requires them to calculate interest upon capital in its economic sense—*i.e.*, the capital invested by the partners at the commencement of the business. I have sometimes asked solicitors what they understood capital to mean when they have been drawing up a partnership deed, and they have invariably told me that they understood it to mean the capital invested by the partners at the commencement. It appears, too, that the majority of commercial men regard it in the same way. I have lately had before me the case of a partnership deed which provides for interest on capital but makes no provision for interest upon drawings. One of the partners has drawn practically nothing out of the business, not even the interest upon capital to which he is entitled. I found that he was credited not only with interest upon undrawn profits as well as upon capital, but also interest upon undrawn interest (*i.e.*, compound interest). Upon calling the attention of the partners to this fact, a considerable dispute has arisen as to the manner in which the partnership deed is to be interpreted. I shall be much

obliged if you, or any of your readers, could refer me to a leading case bearing upon this subject.

Yours faithfully,

C. X.

[We will deal with this in an early issue.—*Ed. Acct.*]**Form of Municipal Accounts.***(To the Editor of The Accountant.)*

SIR,—Some of the members of a ratepayers' association, of which I am one, are much interested in municipal accounts.

There has recently been a discussion of an abstract nature as to the correct method of stating certain items.

1st.—In the event of house property belonging to a borough being let to some of the Council's employees at a reduced rent, together with lessened taxes, ought not the accounts to be so stated that it could be shown clearly in "meal or malt" what the actual salaries of the employees were—that is to say, in (1) cash, (2) reduced rent, (3) lessened taxes?

2nd.—Supposing electric light is supplied to employees, either for nothing or at a lessened price, ought not its value at full price to be transferred from the Electric Light Accounts to those of the Borough and District Funds Accounts, as the case may be, so that the value of the electric light given to the employees be clearly shown as a further addition to their salaries, as illustrated in the preceding paragraph?

3rd.—In the Electric Light Accounts should not the actual output in rents be accounted for, even if some is given away?

We are of opinion that in many boroughs these additions to employees' remuneration are not clearly shown in the municipal accounts, and therefore do not come under the notice of the Council or the ratepayers.

Should matters such as given above come under the notice of the elective auditors, ought they not to report it to the ratepayers?

Your valued opinion will be esteemed a favour.

Yours faithfully,

November 5th 1906.

X. X.

[We will reply to this letter next week.—*Ed. Acct.*]**Scope of Auditor's Duties.***(To the Editor of The Accountant.)*

SIR,—The articles of association of a company provide that:—

"Once at least in every year the directors shall lay before the company in general meeting a

"statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting."

In auditing the accounts of the said company we made, as is our usual custom, a separate report to the shareholders, to which we referred on the Balance Sheet when certifying that our requirements had been complied with.

In this separate report we called attention to the fact that the accounts were made up to a date more than three months prior to the date on which the meeting is to be held.

The secretary of the company, who is also a Chartered Accountant, expresses the view that it does not come within the scope of our duties as auditors to call attention to this fact, and we shall be glad to have the views of your readers on the subject.

Yours faithfully,

NOT RE-ELECTED.

London, 5th November 1906.

[Those who doubt whether it is an auditor's duty to report whether or not a company's regulations have been complied with should read the judgment in the recent *B. S. A. case*.—*Ed. Acct.*]

Annuities and Sinking Funds.

(To the Editor of The Accountant.)

SIR,—With reference to the letter of "Retired" on the above subjects, all compound interest calculations can be very much simplified by using the logarithmic tables in Thoman's "Theory of Compound Interest and Annuities," which tables are also included in "Inwood."

Your correspondent has made some slight slip in his calculation of the log. of $R^n - 1$, which should be $\bar{1} \cdot 1009300$, and also in his reduction of the final logs. into £ s d.

The correct answers are as follow:—

Annuity .. Log. $2 \cdot 1179883 = \text{£}131 \cdot 2165 = \text{£}131 \text{ 4s. 4d.}$
Sinking Fund .. $2 \cdot 0663873 = \text{£}116 \cdot 5165 = \text{£}116 \text{ 10s. 4d.}$

If the results had been tested by deducting the half-yearly interest from the annuity it would have been seen that there was an error in the calculations.

Yours faithfully,

5th November 1906.

C. H. NEVILL.

(To the Editor of The Accountant.)

SIR,—Your correspondent "Retired" would appear to have overlooked the fundamental relationship

between the Annuity and the Sinking Fund methods of repaying a loan. The Annuity formula includes interest on the loan, but the Sinking Fund formula does not, otherwise the calculations are identical.

Thus we have—

$$\frac{S \times i}{1 - \frac{1}{R^n}} - \frac{S \times i}{R^n - 1} = \frac{R^n (S \times i) - (S \times i)}{R^n - 1} = S \times i$$

or, in this particular case $\text{£}735 \times \cdot 02 = \text{£}14 \text{ 14s.}$

As a slight error in "Retired's" figures makes the difference between the two calculations— $\text{£}14 \text{ 13s. 9d.}$

—I beg to append the exact figures:—

	Annuity Method.	Sinking Fund Method.
Log. $(1 \cdot 02^6 - 1)$	$\bar{1} \cdot 1009300$	$\bar{1} \cdot 1009300$
A. C. =	$\cdot 8990700$	$\cdot 8990700$
Log. 6 Log. $1 \cdot 02 =$	$\cdot 0516010$	
Log. $\cdot 02$	$= \bar{2} \cdot 3010300$	$\bar{2} \cdot 3010300$
Log. 735	$= 2 \cdot 8662873$	$2 \cdot 8662873$
Log. $131 \cdot 216$	$= 2 \cdot 1179883$	$2 \cdot 0663873 = \text{Log. } 116 \cdot 516$
	<u>$= \text{£}131 \text{ 4 4}$</u>	<u>$= \text{£}116 \text{ 10 4}$</u>

As a rule these and kindred calculations are made with the assistance of annuity tables, and I would take this opportunity of pointing out to any interested readers the calculations by which from annuity tables we can deduce any of the other five compound interest tables.

Taking, as example, 60 years, and 3 per cent. interest, we have—

- (1) The annuity which $\text{£}1$ will purchase for 60 years = $\cdot 036133$
- (2) The sinking fund to produce $\text{£}1$ in 60 years = $\cdot 006133$
- (3) The present value of $\text{£}1$ per annum for 60 years = $\frac{1}{\cdot 036133}$
- (4) The amount of $\text{£}1$ per annum for 60 years = $\frac{1}{\cdot 006133}$
- (5) The amount of $\text{£}1$ in 60 years = $\frac{\cdot 036133}{\cdot 006133}$
- (6) The present value of $\text{£}1$ due 60 years hence = $\frac{\cdot 006133}{\cdot 036133}$

Yours faithfully,

JAMES PATRICK.

Birkenhead, 6th November 1906.

Compensation under the Licensing Act, 1904.

(To the Editor of The Accountant.)

SIR,—Having had a little experience in this direction I have read Mr. Northcott's lecture with the greatest interest, but I cannot follow him on one point.

In one of his supposed cases he assumes a private individual as lessor and a firm of brewers as lessee.

The lease has thirty years to run and the brewers pay £100 per annum rent, and it is admitted that on the escheatment of the licence the rental value is only £60 per annum. Mr. Northcott ultimately brings out the claim of the owner at £2,145 (see p. 555), and he states that as any interest which the owner has in the property *other than his rent secured under the lease* is deferred for thirty years, it will be necessary to find the present value of £2,145 deferred thirty years, which on the 4 per cent. table is £661. (The words in italics are mine.) Is not the owner also entitled to the loss of the difference of rent for thirty years; that is to say, the difference between the £100 he would have received from the brewers and the £60 he will receive after escheatment of the licence? In other words, is he not also entitled to the present value of £40 per annum for thirty years, which under the 4 per cent. table comes to £691, so that the owner is entitled to £661 for the reversion, and £691 for the loss of a proportion of the rent for the unexpired period of the lease?

Then as to the proportionate abatement of all the individual claims if the award should be less than the aggregate of them, would this be so if the award were stated separately? as I believe in some cases it has been; that is to say, an owner's claim might be allowed in full, and the tenant's as to three-fourths, then each would stand his own loss, I take it.

Mr. Northcott's views on the points I have raised will be of interest.

Yours faithfully,

SIDNEY S. DAWSON.

Liverpool, 6th November 1906.

Debenture-holders and Apprentices.

(To the Editor of The Accountant.)

SIR,—In reply to the letter of "G. F. C." in yours of Saturday last, a letter to which you append a footnote to the effect that you agree, may I venture to reopen the point?

Am I to take it that it is contended that the combined effect of the Preferential Payments in Bankruptcy Act of 1888 and the amending Act of 1897, taken into conjunction with Section 10 of the Judicature Act of 1875, makes the provision of Section 41 of the Bankruptcy Act of 1883 applicable to a company when a receiver takes possession on behalf of debenture-holders, so that apprentices who have paid premiums become entitled to priority to unsecured creditors? If this is the contention I join issue.

The limited effect of Section 10 of the Act of 1875 has been constantly emphasised in the Courts. The section in question deals with the character of debts and liabilities provable, and deals with the respective rights of secured and unsecured creditors, particularly as regards method of proof—*e.g.*, prior to the Act the value of securities would not be deducted in the proof but resorted to after a dividend had been received on the full claim. Now, of course, in the case of an insolvent company the value of the security must be deducted before proof. But Section 10, I submit, does not attempt to assimilate bankruptcy procedure (as regards priority) with winding-up administration. Even if a claim can be readily classified as to whether it is a secured or unsecured claim it does not, if secured thereby, become preferential. There is a vast difference; for instance, a claim for rent *per se* is neither preferential nor secured, though the landlord has a personal right to distrain. There is no similar provision to Section 41 in the Companies Acts; and there does not appear to be any attempt in the Preferential Payments Act to incorporate such a provision, and most certainly Section 10 of the Judicature Act of 1875 does not attempt it.

Yours faithfully,

SIDNEY S. DAWSON.

Liverpool, 6th November 1906.

Holding Companies and Depreciation.

(To the Editor of The Accountant.)

SIR,—Referring to the Weekly Notes in your issue of 3rd inst., I would point out that the remark on p. 537 relating to this company's published accounts is liable to convey a misleading idea of what our Chairman stated at the last annual general meeting. What he said with reference to the point in question was as follows:—

"We have conferred as to the best way of dealing with this question, and have consulted our auditors fully. As the report states, we have decided to treat the matter as has been our custom in former years, only—as you will infer from what I have said—this is the first year in which there has not been a balance of appreciation instead of one of depreciation. We have always considered that until a security was finally realised, either at a profit or at a loss, it must stand on the books at cost, being neither written up nor written down. As you are aware, some companies follow the practice of re-valuing at the close of the financial year their securities at the figure of the day, the result being to show sometimes a paper profit which cannot be dealt with, and sometimes a paper loss which has not been

realised. Thus I have seen a Balance Sheet which showed one year a large profit and the next year, on practically unchanged items, a heavy loss; the one giving rise, probably, to vain hopes, the other to needless fear. I submit that our system is the better one, so long as (and this, of course, is the crucial test in which I am sure your present Board will never fail) the amount of depreciation having been duly ascertained is plainly stated on the face of the accounts and in the directors' report."

I would further mention that the word "aggregate"—which is obviously incorrect—does not appear at all, and was not employed by the Chairman, but the word "ascertained" was used, as you will observe above.

I have pleasure in handing you herewith a verbatim report of the meeting.

Yours faithfully,

CHARLES W. MOORE,

London, 6th November 1906.

Secretary.

[If our correspondent will kindly favour us with a copy of the directors' report and accounts we shall be able to go into the matter further. At present we see nothing misleading in our comment.—*Ed. Acct.*]

The Institute of Chartered Accountants in England and Wales.

At a meeting of the Council, held on Wednesday, the 7th November 1906, at the Hall of the Institute, Moorgate Place, E.C., there were present:—Mr. W. B. Peat, President (in the chair); Mr. J. B. Ball, Vice-President; and Messrs. W. Ashworth, J. W. Barber, J. H. Blackburn, W. Blease, T. Bowden, E. M. Carter, E. Edmonds, John Gane, J. Gordon, T. Gregory, J. G. Griffiths, J. E. Halliday, B. W. Hardcastle, A. C. Harper, D. Hill, W. C. Jackson, F. A. Jenkins, H. Woodburn Kirby, G. Walter Knox, A. O. Miles, F. W. Pixley, W. Plender, F. J. Saffery, T. G. Shuttleworth, G. Sneath, Edwin Waterhouse, F. Whinney, and J. W. Woodthorpe.

The Examination Committee reported that the following notices have been received for the examinations in November and December:—

Intermediate, 20th and 21st November 1906 ...	181
Final, 27th, 28th, and 29th November 1906 ...	198
Preliminary, 4th, 5th, and 6th December 1906 ...	151

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Mr. John George Litton, F.C.A. (Butcher, Litton &

Pownall), 42 Spring Gardens, Manchester, was elected a member of the Council in the place of the late Mr. Adam Murray.

Mr. John Mather, F.C.A. (Parkinson, Mather & Co.), 8 King Street, Manchester, was elected a member of the Council in the place of Mr. C. H. Wade, F.C.A., resigned.

It was resolved that Certificates of Practice be issued to the following members:—

Anderson, Edgar Charles, 10 Ashton Chambers, Hackens Hay, Liverpool.

Baxter, Alexander James, 63 Cornhill, E.C.

Blore, Frank Harold (Hall & Blore), Bentinck Buildings, Wheeler Gate, Nottingham.

Boniface, Walter (R. J. Ward), 2 Clement's Inn, W.C.; and 8-11 Pavilion Buildings, Brighton.

Buckland, Sidney Hiles, Arcade Chambers, Goat Street, Swansea.

Crawford, Edward William (John Stubbs & Crawford), 4 Lacey Street, Widnes.

Dadley, Maurice George, Masonic Buildings, Little Park Street, Coventry.

Davis, Gershom Willoughby Cecil, 42 Poultry, E.C.

Follit, Harry Cecil Baily (A. C. Palmer & Co.), 7 & 8 Railway Approach, London Bridge, S.E.; and at Bristol, Leicester, and Northampton.

Gaskin, John, 1 High Pavement, Nottingham.

Goodwin, John Palmer Willis, 31 Copthall Avenue, E.C.

Hart, Sydney Walter, 3 New Street, Birmingham.

Heap, Arthur Hargreaves (Joshua Wortley & Sons), Alliance Chambers, George Street, Sheffield.

Hill, Sydney Herbert, 12 Low Pavement, Nottingham.

Hill, William Sydney, 76 Mosley Street, Manchester.

Holland, Talbot William (Robert Bromhead & Co.), 11 Princes Square, Plymouth; and at London and Truro.

Howorth, Frank Skaife (Roose, Mahon & Howorth), 26 North John Street, Liverpool.

Lumsden, Stuart, 15 Walbrook, E.C.

Mahon, Herbert George (Roose, Mahon & Howorth), 26 North John Street, Liverpool.

Moss, Arthur Herbert (Hart, Moss & Co.), 22 Moorgate Street, Rotherham; and at Sheffield.

Mountjoy, John Percy (J. P. Mountjoy & Co.), Old Bank Chambers, 27 High Street, Cardiff.

Nixon, John George, Junr., 18 Dean Street, Newcastle-upon-Tyne.

Ogle, Homfray (Newman Ogle, Son, & Grace), Worcester House, Walbrook, E.C.

Pain, Charles John (Hubbart & Durose), 10 South Parade, Nottingham.

Palmer, Harry Claude (A. C. Palmer & Co.), St. Giles' Chambers, Northampton.

Roe, Alfred Ernest (Hubbart & Durose), 10 South Parade, Nottingham.

Sharp, Harold Arthur (Sharp, Parsons & Co.), 120 Colmore Row, Birmingham; and at London.

Smith, Rowland Evans, 42 Old Broad Street, E.C.

Stead, Charles Frederic (Stead, Taylor & Stead), The Temple, Dale Street, Liverpool.

Swaine, Henry Craven, 18 and 19 Ironmonger Lane, E.C.

Webb, George Richards, 2 Langham Place, Regent Street, W.

Whitley, Arthur de Winder (Jonathan Whitley & Son), Temple Buildings, Keighley.

Wing, Arthur Leslie, King's Chambers, Angel Street, Sheffield.

A number of applicants were admitted members, and one Associate was elected to Fellowship. A list of those who complete their membership or Fellowship by the 22nd inst. will appear in our issue of the 24th inst.

Recent Additions to the Library.

Purchased.

The Science of Loose-leaf Bookkeeping and Accounting.

By C. A. Sweetland. Fourth Edition. St. Louis: [1904].

Uses of Loose-leaf Books. By C. A. Sweetland. Chicago: 1905.

Partnership Accounts. By P. Child, A.C.A. Fourth Edition. London: 1906

Bookkeeping down to Date. By A. Munro. Third Edition. London: [1906].

Mine Accounts and Mining Bookkeeping. By J. G. Lawn. Fourth Edition. London: 1906.

Gas Companies' Bookkeeping. By J. H. Brearley and B. Taylor. Second Edition. London: 1906.

Accounting in Theory and Practice. By G. Lisle. New Edition. Edinburgh: 1906.

Elementary Bookkeeping. By J. E. Webster and Harry Hughes. Second Edition. Exeter: 1906.

Accountancy: Specially for use in keeping Salvation Army Accounts. By P. Bates. London: 1906.

Goodwill and its Treatment in Accounts. By L. R. Dicksee and F. Tillyard. Third Edition. London: 1906.

Revised Reports, Vols. 79, 80, 81, 82, 83, 84, 85.

Digest of *The Times* Law Reports, 1900-05.

Encyclopædia of Local Government Law. By J. Scholefield. Vol. 3. London: 1906.

Times "Issues," Jan-June 1906.

Trustee Savings Banks Return for 1905.

Presented by The Treasurer and Masters of the Bench.

Catalogue of Gray's Inn Library. London: 1906.

Presented by the Inspector-General.

Twenty-third Annual Bankruptcy Report, for 1905.

Presented by the Borough Accountant (T. M. Fawcett, A.S.A.A.).

Borough of Scarborough Abstract of Accounts, 1905-6.

Presented by Messrs. Fred Scott, Morris & Co.

County Borough of Salford Abstract of Accounts, 1905-6.

Presented by the City Treasurer (W. Fisher Tasker, F.C.A.).

City of Sheffield Abstract of Accounts, 1905-6.

Presented by the City Treasurer (J. Tremayne Lane).

City of Bristol Abstract of Accounts, 1905-6.

Presented by the Borough Treasurer (H. H. Hopton).

Borough of Swansea Abstract of Accounts, 1905-6.

Liverpool Chartered Accountants Students' Association.

Some Notes on Income Tax.

By ROGER N. CARTER, F.C.A.

(Joint author of "A Guide to Income-tax Practice.")

A PAPER read to the Liverpool Chartered Accountant Students' Association, Thursday, 8th November 1906.

When I accepted the invitation of your Hon. Secretary to read a paper on income-tax, he was good enough to say that the repetition of an old one would suffice, as even that would be new to your members. Having, however, a natural reluctance to appear to slight your invitation, and an objection to absolute repetition, it occurred to me that by selecting a general title I might, whilst using certain old material—and anything *absolutely new* is scarce—put together something which, while largely avoiding a stereotyped account of what expenses could and what could not be deducted, might still be useful to the younger students, and yet afford food for discussion for older ones. I accordingly selected the title of "Some Notes on Income-tax," in order to give myself a free hand.

Taxation at the Source.

You are doubtless aware that the *principle* upon which income-tax is levied is that of taxation *at the source*.

It was very clearly stated in the First Report of the Commissioners of Inland Revenue (1857):—

"As the former duty was imposed on a general account of income from all sources, the present duty is imposed on each source, by itself, in the hands of the first possessor, at the same time permitting its diffusion through every natural channel in its course to the hands of the ultimate proprietor. Instead of the landlord and the various claimants upon him in succession, it looks to the occupier only. Instead of the creditor, it looks to the fund from which the debt is answered. In the place of a complicated account, collected from the various sources from which the income of an individual may be derived, it applies to the source itself. By these means its object is attained with more facility and certainty, and with less intricacy and disclosure, diminishing the occasions of evasion by the means of exaction: thus, the charge is gradually diffused from the first possessor to the ultimate proprietor; the private transactions of life are protected from the public eye, and the Revenue is more effectually guarded."

It is this principle which gives rise to the necessity for claims for repayment in the case of those who have income from invested capital and are entitled to abatement.

By reason of it also arises the anomaly of a person sometimes having to pay income-tax though he has not made £160, or though he has even made a loss.

Some people experience a difficulty in realising why they have to pay tax on a *gross* income when they have payments to make out of it for interest, &c. The reason is, of course, because they are entitled to deduct tax on payment of such interest, so that as a result they are placed in the same position as if the system were different. Thus,

a person with a gross income of	...	...	...	£1,500
with charges thereon of	...	...	...	500
Net	...	...	...	<u>£1,000</u>

pays tax on £1,500 (by deduction or otherwise), but recovers from his creditor on the £500, and is thus left in the same position as if he had a direct assessment upon him for £1,000.

So, if he is in business and makes an actual loss he would still have to pay on the £500 interest, as otherwise he would be making a *profit* on income-tax. A trader frequently does not realise this; and though he would probably not object to pay the full £500 of interest, he frequently resents the payment of the £25, forgetting that otherwise he would only be paying £475.

This clearly explains why interest payable and chief rent are re-credited to a Profit and Loss Account for income-tax purposes. But here let me warn you that it is only on interest *actually payable* that tax is to be paid in the case

of a loss, not upon anything charged for interest on partners' capital.

Adjustments for Income-tax Purposes.

Of the other items to be re-credited some are clearly profit, *e.g.* :—

Partners' Salaries (and Interest).
Charitable Subscriptions.
Amount written off Goodwill.

Others are "capital," some tacitly acknowledged, as—
Preliminary Expenses.
Loss of Premises by Fire.

Others so held by various cases, *e.g.* :—
Cost of Pit-sinking.
Exhaustion of Capital by working minerals.
Premium on Repayment of Debentures.

The necessity for writing back "income-tax" itself is not so obvious. It appears to be an ordinary business charge, and, as such, deductible. An allowance of it, however, to a business man would naturally involve a like allowance to a salaried individual, and would produce the rather curious result that a person in a situation at about an abatement limit (say) £720 per annum, would have to make a mathematical calculation to ascertain whether or not he was entitled to a certain abatement.

In any case, it would be covered by Section 159, which provides that there is not to be any deduction from profits except such as are "expressly enumerated."

Whilst on this point of deductions I cannot resist a protest against what I consider the iniquitous decision of the Court of Appeal and the House of Lords (reversing the decision of Phillimore, J.) in the case of *Strong & Co., Lim. v. Woodifield*. The facts were that a guest in one of the licensed houses of Strong & Co., Lim., was injured by the falling upon him of a chimney, during a gale, whilst in bed in the hotel. The damages and costs in an action brought by him against the company amounted to £1,490. This sum the company sought to deduct from their profits for income-tax purposes, and the Crown resisted the claim. The point was whether this amount fell to be excluded under Rule I. of Cases I. and II., that "no sum shall be set against or deducted from . . . such profits or gains for any disbursements or "expenses whatever, not being money wholly and exclusively laid out or expended for the purposes of such trade, "manufacture, adventure, or concern." The Commissioners were in favour of the Crown, and the company appealed. On behalf of the company it was argued that this was the same as damages paid by a railway company for personal injury, or to a passenger whose luggage, by the carelessness of a porter, had been left behind, or the case of a bank paying the damage caused by the payment of a forged cheque, or damages paid to an employee for wrongful dismissal, or (as suggested by

Phillimore, J.), where a grocer had to pay a fine in consequence of his scales being incorrect. The Crown argued that the whole question was whether damages recovered from a taxpayer for personal negligence (a tort) could be deducted and that this deduction was prohibited by Section 159, and that Lord Shand's words in the *Royal Insurance* case were merely *obiter dicta*. Phillimore, J., considered the company was clearly entitled to the deduction, and that Lord Shand's expression was almost prophetic of this case.

The Crown appealed. They further contended that damages payable to a person who had been negligently run over by a brewer's dray would not be deductible; that Lord Shand's dictum was wrong; that damages payable by a newspaper for libel would not be deductible; nor damages payable by a professional man whose coachman had negligently run over some one.

The company replied that this sum must first be deducted to arrive at the "profits"; that damages payable by a surgeon who had been negligent in performing an operation would be deductible.

The Court of Appeal reversed the decision of Phillimore, J. The Master of the Rolls said that a sum must be shown to be an expense incident to the earning of the profits to enable it to be deducted. The line was a fine one, and some cases were on one side and some on the other. He considered this to be a sum paid out of profits after they had been earned, though it was granted the company would not have had to pay it unless they had kept the inn and received guests; and Cozens-Hardy and Mathew, L.JJ., agreed, and the former likened the case (erroneously, in my humble opinion) to that of a claim made by a *passer-by* who was injured by a chimney falling on him in the street.

The decision has since been confirmed by the House of Lords, but I have not yet seen a full report.

One cannot but regret that the Department should go out of their way to press a point which has produced such obvious injustice. It is such cases as this which make fair-minded men have such a rooted objection to the income-tax. Here there was not involved a principle which struck at the root of the income-tax, and which would be arising daily (in such a case the Crown might possibly be excused for fighting for revenue), but it was an individual case which would rarely arise, and the benefit might well have been given to the taxpayer.

Presumably it will be acted upon, and, if so, it will cause endless irritation in small items and involve annoyance altogether out of proportion to the benefit to accrue to the Crown.

Hints to Examination Students.

Examination students should get into the way of taking a three-columned account in answering income-tax questions, even though the adjustments are the same in each year. One has sometimes seen the net profit for the three years divided by 3 and adjustments then added. The adjust-

ments should be added to each year's profits, and the total divided, as one who gets into the way of doing it in the other method is nonplussed when the items in each year are different.

Copyrights, Patent Rights, and Terminable Annuities.

It may not be out of place to spend a little time on this subject which was before the Departmental Committee on Income-Tax, in connection with the question whether anything should be allowed to a person deriving income from such sources in respect of the depreciation of the patent, &c., or the exhaustion of capital.

The present practice as to copyrights, &c., is as follows:—

(1) Payments by manufacturers to patentees, varying according to the extent to which an invention is used, are assessed direct upon the recipient, but if neither the patentee nor his agent resides here there is no machinery for making the assessment.

(2) Annual payments of fixed amount, or being a fixed share of profits, are assessed on the person making the payment in the same way as interest.

(3) An author, playwright, or artist selling copyrights, &c., to publishers is chargeable on the amount received less his expenses; if sold on royalty the whole amount of the royalty is chargeable.

(4) No charge is made upon a person who has an isolated transaction of such a nature; it is looked upon as capital.

Mr. E. E. Nott Bower (Commissioner of Inland Revenue) stated before the Committee that the aim was to tax the whole profit, and it was for vendor and purchaser to arrange together how it should fall upon each of them. They tax the whole of the copyright in the hands of the author, and that being the case, to avoid taxing it twice they allow the amount as a deduction *in some shape* from the publisher's profits.

Mr. Nott Bower's words may be of use to you on other matters:—"The District Commissioners are very unwilling, as Mr. Gayler has said, to tax the same profits twice, and so is the Board of Inland Revenue." Probably this coincides with the experience of most of us, but the expression is worth emphasising. If we have grievances it is more in the nature of taxing *once* something which, we think, should not be taxed at all.

As an illustration take the case of *Strong v. Woodfield* previously alluded to.

On the question of copyrights it is difficult to see what concession could be made. A. writes a book and either sells it for cash (say £1,000) or on a royalty which he considers equal to its cash value. In either case he should surely pay tax on one amount or the other, just as a professional man pays on his fees. His only grievance is that there is not any allowance for wear and tear of *brain power*, or differentiation between *classes* of incomes. This is a most difficult point.

To sum up the entire question of "depreciation" of such things as patents it appears to me that if, as is suggested (and as may be assumed), a purchaser allows for the fact of having to pay tax on his *gross* profit, the only person strictly entitled to relief is the original patentee. Thus, if I spend £5,000 perfecting a patent, and sell it for £10,000, my purchaser considers it as £10,500 less £500 tax. If he sells for £20,000 he has deducted and retained tax on £10,500; and if his purchaser considers his purchase £21,000 less £1,000, he has only *borne* tax on his *profit*; and so on. The injustice is to the *original* patentee, who has no means of recouping his £5,000 expense.

If this view be correct a person who draws large amounts in lump sums does not really escape tax thereon, but actually pays on his gross profit.

In other words the principle is to look to the profit of the patent from whoever is most conveniently at hand, and to leave all adjustments to be made by the parties through whom it passes, and the same arises if an original patentee works his own patent.

As the Crown admittedly get tax on the whole proceeds of the patent it would be only just to allow a patentee repayment on due proof of the amount spent on perfecting the same; and it is, perhaps, rather singular that this view does not appear to have been put before the Committee by anyone.

Personally, I have always held the view that as a matter of *justice* annuities should only be taxed on the portion which can be fairly called income after allowing a provision to replace the capital, but it has seemed to me difficult to deal with this *administratively*. The opinion of the Chairman (Mr. Ritchie), of Sir Henry Primrose, and of Mr. Buxton seemed to be that it is fair to tax the whole annuity, though the Chairman considered there was justice in a claim for wasting of capital.

They apparently support this by suggesting:—

- (a) That a person buying an annuity does so in order to convert it into income.
- (b) That a person so doing escapes estate duty, as he leaves nothing.
- (c) That transactions having been entered into on the present basis a change would be an absolute *gift* to annuitants at the expense of other taxpayers.

Sir Henry Primrose made a strong point to his case when he brought out that as to leasehold interests the interest is a continuing one, though passing from A. to B., and that that transfer should not affect the State.

I should like to see some effort to exempt a portion of an annuity created by purchase as representing capital, and I have tried in my own mind to draft words which would cover such an annuity. So far I have not been able to see how *general terms* could be laid down to cover such without including *all* annuities, but if there were a *desire* to do it it

should not be beyond the wit of man to accomplish. I am fully aware that this would involve claims by mineral owners for allowance in respect of exhaustion of capital, but this is a *fair and equitable* claim, and is likewise one which should be allowed. It is difficult to see why a coal merchant who buys stock in *small* quantities may deduct the cost of his purchase, but one who buys *large* quantities (in the earth) may not do so.

Wear and Tear.

The exact method of treating wear and tear seems to frequently present a stumbling block to students. The amount is allowed off the *average profits* after that average has been ascertained. A strict Surveyor will never allow it in any other way; the amount charged in the accounts should always be written back to credit, and the deduction claimed off the average. This is so even if the rate allowed is the same as that charged in the accounts, for the allowance is for wear and tear *for the year succeeding those on which the profit is based*, and is on the machinery figure standing as at the commencement of the year. Thus, if the Machinery Account be—

				£
Amount as at 31st March 1905	..	..	..	20,000
Additions to March 1906	..	..	..	1,100
				21,100
Less Depreciation	..	..	..	2,000
				<u>£19,100</u>

The amount on which depreciation is allowed is—

				£
Amount at 31st March 1905 for Income-tax purposes	..	..	..	25,000
This will usually be greater than the book figure, as there will probably not have been so much allowed as has been written off.				
Less Depreciation allowed for 1905-6	..	..	..	1,875
				23,125
Additions	..	..	..	1,100
Amount on which Depreciation will be allowed for 1906-7	..	..	..	<u>£24,225</u>

Deduction of Annual Value under Schedule A.

This presents some slight difficulty, but the present practice is to deduct rent or annual value off each year before taking the average, thus reverting to the practice prior to 1894.

An apparent injustice arises where a person has rented his business premises for two years and then buys them. Assume:—

		To March 31 1903, 1904, 1905.		To March 31 1906.
Profit for year	..	£1,000	..	£980*
Less Rent, 1903, '04, '05		120		
Annual Value, 1906	..	..	..	100
Net	..	<u>£880</u>	..	<u>£880</u>

* £1,000, less Repairs to Buildings, £20.

The original return for 1905-6 would be £880. Tax would be paid under Schedule A on £100, and it is frequently suggested that this should then be deducted from the £880 under Schedule D. Those who so argue overlook the fact that the £880 is arrived at *after a charge for rent*, though at first sight their argument appears sound. Another reason against their contention is that, if it were correct, the change of ownership would diminish the amount receivable by the Crown by the amount of the Schedule A assessment.

Profits Chargeable.

I should just like to mention a recent case which has been decided differently from the long series of cases of companies incorporated in England and holding all the shares in a company incorporated abroad—I allude to *The Gramophone and Typewriter, Lim. v. Stanley*. You may remember that hitherto such companies have been held liable to taxation on the whole of their profits, whether remitted to England or not. A rather fine distinction was drawn in this case—apparently on the ground that the foreign company was not quite so fully governed from here as in the other cases—and the decision was that the company is only liable on the profit remitted here.

Repayment.

As you can scarcely fail to be interested in the question of repayment, I will deal with "Section 133," leaving the Act of 1890 and only calling your attention to the question of abatement and exemption in reminding you that in a large trust estate you may have very heavy claims for abatement. I have recently had such a case where there was about £1,000 per annum divisible among five. This involved five abatements, which, for three years, represented the recovery of something like £120.

Claim for repayment under Section 133 of the Act of 1842 as amended.

This important section is as follows (I have bracketed much of the section to facilitate the reading of it):—

"If [within or at the end of the year current at the time of making any assessment under this Act, or at the end of any year when such assessment ought to have been made] any person charged to the duties contained in Schedule D [whether he shall have computed his profits or gains arising as last aforesaid on the amount thereof in the preceding or current year, or on an average of years], shall find [and shall prove to the satisfaction of the Commissioners by whom the assessment was made] that his profits and gains [during such year for which the computation was made] fell short of the sum so computed [in respect of the same source of profit on which the computation was made] it shall be lawful for the Commissioners to cause the assessment made for such current year to be amended [in respect of such source of profit as the case shall require, and, in case

the sum assessed shall have been paid, to certify under their hands to the Commissioners for Special Purposes at the chief office of Inland Revenue in England the amount of the sum overpaid upon such first assessment, and thereupon the said last-mentioned Commissioners shall issue an order for the repayment of such sum as shall have been so overpaid]. . . ."

And the amending Act of 1865, Section 6, reads:—

"No such reduction or repayment shall be made in any such case, unless the profits of the said year of assessment are proved to be less than the profits for one year on the average of the last three years, including the said year of assessment; nor shall any such relief extend to any greater amount than the difference between the sum on which the assessment has been made, and such average profits for one year as aforesaid."

Briefly, you will notice, the original Act provides for an assessment to be reduced to the actual profit of the year of assessment, but the Act of 1865 restricts the reduction to the average profits of the three years including the year of assessment.

In either case, if tax has been paid, the difference is to be repaid. In the vast majority of cases the Act is used on a claim for repayment, the reason of this being obvious.

Thus if a return had been:

			£
Year ended 31st December 1902..	..	..	3,050
" " 1903..	..	..	3,440
" " 1904..	..	..	4,390
			<u>3)10,880</u>
Average for 1905-6 ..	..	..	3,627
And assuming depreciation to have been			
allowed at..	..	..	<u>300</u>

The firm will have paid tax on 1st Jan. 1906

on ..	..	..	..	..	..	£3,327
-------	----	----	----	----	----	--------

On making up their accounts to the end of 1905 we find they have only made £2,000, and taking the new average as directed by the 1865 Act, we find the result to be as follows:—

			£
Year ended 31st December 1903, Profit ..	..	..	3,440
" " 1904 ..	..	..	4,390
" " 1905 ..	..	..	<u>2,000</u>
			<u>3)9,830</u>
Average ..	..	..	3,277
Less Depreciation ..	..	..	<u>300</u>

We can then claim the difference between :—

	£	s	d
The Tax paid on £3,327 at 1s.	166	7	0
And Tax on the <i>new average</i> , £2,977 at 1s.	148	17	0
	£17	10	0

The following important points have been decided by the Courts :—

That an appellant cannot require the Commissioners to swear him on oath, and then accept his statement as conclusive. (*Reg. v. Chew*, Court of Appeal, 1894.)

That the words "within or at the end of the year" (Section 133) mean that the appellant must exercise due diligence, and the appeal must be made within as short a time as, in the particular case, the person, by using every exertion, ought to have found out that he had grounds for an appeal.

The practice varies in different districts. It may be said that as a rule no claim will be allowed anywhere unless made within twelve months, but in many districts the Commissioners will not hear a claim unless made within a much shorter period.

Let us assume a different result.

Suppose it be :—

£		£
5,050	Year ended 31st December 1902 ..	
2,640	" " 1903 ..	2,640
4,390	" " 1904 ..	4,390
	" " 1905 ..	3,800
3)12,080		3)10,830
4,027	Average	3,610
300	Depreciation	300
£3,727		£3,310

Here the profit of the year 1905 (£3,500 net) is *not less* than the new average (£3,310), and therefore under the strict terms of the Act of 1865 no repayment would be made. The practice, however, is not to apply this Act strictly, and in such a case repayment is allowed on the difference between the *amount assessed* and the *profit of the year*. It will be noticed that this is a distinct concession.

The claim allowed would be the difference between :—

	£	s	d
The Tax paid on £3,727 at 1s.	186	7	0
And Tax on the profit of the year, £3,500 at 1s.	175	0	0
	£11	7	0

It is important to observe that these sections extend to allow the applicant to claim abatement on a higher scale. Thus, if the profits paid upon amounted to £658, and were those of an individual who had no other income, he would in the first case have paid upon £658, less £70 (£588). Let us assume that the new average works out at £458.

He is not merely entitled to claim repayment on the difference between £658 and £458 (£200), but will claim as follows :—

	£
Profit (as amended)	458
Less Abatement (scale of £400 to £500) ..	150
	308
Paid on	588
Claim for repayment on	£280

Lest there should be any misunderstanding it must be borne in mind that (where a proper Return has been made on past profits) the Crown has no claim on a taxpayer by reason of his profit exceeding the assessment.

Where a business has been set up within the three years, the appeal must be on the profit of *the year* until three years have been reached, when it comes into an average.

Thus, if a business commenced 1st April 1904,

The Return

For 1904-5 would be on the profit of 1 year up to April 1905.

" 1905-6 would be on the profit of 1 year up to April 1905.

" 1906-7 would be on an average of 2 years up to April 1906.

The Appeal

For 1904-5 would obviously not be necessary.

" 1905-6 would be on the profit of 1 year up to April 1906.

" 1906-7 would be on the profit of 3 years up to April 1907.

That is to say, that though the taxpayer pays during the first two years on actual profits (or less), when the third year comes he must go *on average*, not on the profit of that year.

Where a business has been sold or succeeded to in any way (including its incorporation as a limited company) it is to be treated, for the purpose of a Return, as a *continuing* one. For the purpose of appeal, however, some Surveyors treat it as a new business, and take the appeal accordingly on the new profits only, others on average. The practice is not uniform.

Deduction of Life Insurance Premiums.

I will conclude with mentioning to you that the Revenue Act, 1906, has extended the allowance for life insurance premiums in respect of companies "lawfully carrying on business in Great Britain or Ireland," so that practically all payments for life insurance are now allowed.

The Chartered Accountant Students Society of London.

Programme—Autumn Session, 1906.

Owing to this syllabus only reaching us in time to insert the three meetings of the autumn session of the above Society, which are yet to be held, the meetings already held were unfortunately omitted. We print the entire programme below:—

- Oct. 10.—Discussion on May Examination Questions. Openers: Final, Harold L. Shoveller; Intermediate, Marcus L. T. Hare, B.A.
- „ 17.—Lecture, "Compensation under the Licensing Act, 1904." W. C. Northcott.
- „ 24.—Prize Essay, "The Duty and Responsibility of Auditors with regard to the item 'Stock-in-Trade' on a Balance Sheet." Cyril F. Bird.
- „ 31.—Joint Debate with Bristol Chartered Accountant Students' Society. "That it is both desirable and necessary for the existing Income Tax procedure to be amended as follows:—

- (a) The application of three years average system to all classes of income.
- (b) Half the allowance for depreciation to be a compulsory instead of a discretionary deduction, and to be calculated at uniform rates upon original values.
- (c) The certification by qualified accountants, of all returns exceeding £500.

(Arranged by the Union of Chartered Accountant Student Societies.)

- Nov. 7.—Lecture, "Partnership." Leonard Mossop, Barrister-at-Law.
- „ 8 (Thursday).—Joint Debate with Nottingham Chartered Accountant Students' Society, at Nottingham. (Arranged by the Union of Chartered Accountant Student Societies.) (For subject see above.)
- „ 14.—Lecture, "Compositions and Schemes of Arrangement in Bankruptcy." A. H. Partridge, A.C.A.
- „ 21.—Lecture, "Local Authorities and their Finance." T. H. Clare (Treasurer of the city of Birmingham).

Dec. 6 (Thursday).—Seventh Annual Dinner at Hotel Cecil. (Further particulars will be supplied at a later date.)

Personal.

MESSRS. HADFIELD & RIDDELL and Mr. M. WEBSTER JENKINSON announce that they have amalgamated their businesses as from the 1st inst., and will in future practise at 1 George Street, Sheffield, under the style of HADFIELD, RIDDELL & CO.

Meetings for the ensuing Week.

Tuesday—Inaugural meeting of the Chartered Accountants' Prayer Union.—Address by the Right Rev. Bishop Taylor Smith, at Salisbury House (Hall 201); 6 p.m.

Wednesday—LONDON CHARTERED ACCOUNTANT STUDENTS SOCIETY.—Lecture, "Compositions and Schemes of Arrangement in Bankruptcy," by Mr. A. H. Partridge, A.C.A., at the Hall of the Institute, Moorgate Place; 6 p.m.

SHEFFIELD CHARTERED ACCOUNTANTS STUDENTS' SOCIETY.—Lecture, "The Law as to Partnership," by Mr. L. J. Kirkham, Solicitor, at the Library, Hoole's Chambers, Bank Street; 6.45 p.m.

Thursday—LEEDS AND DISTRICT CHARTERED ACCOUNTANTS STUDENTS' ASSOCIATION.—Lecture, "The Preparation of Accountants' Certificates for Purposes of Joint Stock Company Flotations," by Mr. A. F. Dodd, F.C.A., at the Law Institution, Albion Place; 6.30 p.m.

Salary or Wages.

(From *The Solicitors' Journal*.)

AN interesting point in bankruptcy law was recently decided by Judge Bompas, K.C., at the Bradford County Court in the case of *Re Roberts*. The bankrupt was a fish salesman earning 28s. per week, paid weekly, and liable to a week's notice to terminate his employment. The Official Receiver applied under Section 53 (2) of the Bankruptcy Act, 1883, for an order that a proportion of these earnings should be set aside for the benefit of the creditors. Section 53 (1) applies to the case of a bankrupt who is an officer in the army or navy or employed in the civil service. Sub-section 2 provides that "where a bankrupt is in receipt of a salary or income other than as aforesaid . . . the Court, on the application of the trustee, shall from time to time make such order as it thinks just for the payment of the salary, income, . . . or any part thereof to the trustee to be applied by him in such manner as the Court shall direct." The question for decision was whether the bankrupt's earnings were salary or income within the sub-section. For the bankrupt it was argued that they were the wages of a workman, and that the case was governed by *Re Jones* (60 L.J. Q.B. 752), where Cave, J., said, "We cannot say that the wages of a working man are salary or income within the section." It was also contended that as the bankrupt was liable to be dismissed at a week's notice his earnings were stamped with an element of contingency and uncertainty, and came within the ruling of the bone-setter's case (*Re Hutton*, 54 L.J. Q.B. 54), where Cotton, L.J., said: "Income of a similar kind with that in the preceding section is intended. The order must not deal with contingent or possible income. You cannot force the bankrupt to go on earning this income."

The Official Receiver contended that the earnings constituted a salary. He relied on *Re Shine* (61 L.J. Q.B. 253), where Fry, L.J., said: "It appears to me that whenever we get these four things predicated of a sum of money—first, that it is for services rendered; secondly, that it is under some contract or appointment; thirdly, that it is computed by time; and, fourthly, that it is payable at a fixed time—we have a salary, and that it is not the less a salary because it is liable to be determined by the paying party, or that it is liable to deduction." *Re Hutton* could be distinguished, because in that case the earnings were analogous to the fees of a professional man, with no regularity of payment or amount, and no contract. The dictum of Cave, J., was not necessary to the decision in *Re Jones*. There the bankrupt was a working collier, and his earnings would vary in amount according to the quantity of work done, or the time spent in doing it. It could not be said that a person in the position of the bankrupt was a working man in the ordinary sense. The learned Judge, with some hesitation, decided that the case was governed by *Re Shine*, and he accordingly made an order for the payment of £1 per month. We cannot help thinking that a contrary decision would have excluded from the Act a large class of people to whom it was intended to apply.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, Nov. 2nd, was 168, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 98; Deeds of Arrangement registered, 70. The respective numbers in the corresponding week of last year were: Bankruptcies, 100; Deeds of Arrangement, 76—total, 176; being a decrease of 8. The total number of commercial failures recorded during the 44 weeks of the present year is 7,057; the total number recorded in the corresponding 44 weeks of last year was 7,551, showing a decrease of 494.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, Nov. 2nd, was 136. The number in the corresponding week of last year was 164, showing a decrease of 28. The total number filed during the 44 weeks of the present year is 6,443; the total number filed in the corresponding 44 weeks of last year was 7,090, showing a decrease of 647.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, Nov. 2nd, amounted to £1,205,025, by way of

addition to £1,639,194, previously issued by the same companies. The amount registered in the corresponding week of last year was £1,311,069, showing a decrease of £106,044. The total amount registered during the 44 weeks of the present year was £68,839,403 (in addition to the issues in previous years by the same companies), as compared with £65,101,261 for the corresponding 44 weeks in 1905, showing an increase of £3,738,142.

The Profession in Scotland.

Personal.

Messrs. John Moore Fulton & Alexander Mitchell (sole partners of the firm of Drynan, Fulton & Mitchell, C.A.), 194 St. Vincent Street, Glasgow, have assumed as a partner Mr. James Marshall Findlay, C.A. The business will now be carried on under the firm-name of Fulton, Mitchell & Findlay.

Bank Rate of Discount.

April 5th 1906	..	..	..	..	..	..	3½%
May 4th ..	..	..	..	..	..	..	4%
June 21st ..	..	..	..	..	..	..	3½%
Sept. 13th ..	..	..	..	..	..	..	4%
Oct. 11th ..	..	..	..	..	..	..	5%
Oct. 19th ..	..	..	..	..	..	..	6%

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The Accountant

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ACCOUNTANCY THROUGHOUT THE WORLD.

VOL. XXXV.—NEW SERIES.—No. 1667.] SATURDAY, NOVEMBER 17, 1906. [PRICE 6d.

Extract from *Auditing*, by LAWRENCE R. DICKSEE, F.C.A.
(Page 190)

Licensed Houses present some rather special features. The goodwill attaching to the license gives the lease or freehold of licensed premises a market value greatly in excess of their real value as buildings. To be properly considered, the value of the premises and the license must be separated. The former should be depreciated in the usual way, leaving the license alone to be considered. A license on freehold premises does not depreciate, but a license on leasehold premises passes away with the premises and must therefore be depreciated like a lease. A license may at any time be lost—either for misconduct or for no reason—but this is a contingency outside the scope of depreciation. It may, however, be provided against by insurance, which would appear to be a most prudent course to adopt.

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Leading Articles.

Certificates as to Profits.

A RECENTLY-ISSUED contemporary announces that it has converted its undertaking into a limited liability company, and is prepared to receive applications from its readers only for an issue of 5 per cent. debentures. No particulars whatever are given as to the value of assets, save that "it is, of course, too early to publish a Balance Sheet"; but by

way of an inducement to subscribers it is stated that the founder will transfer to them fully-paid shares, pound for pound, for the debentures taken up by them. One would have thought that if it was "too early to publish a Balance Sheet," it would have been equally too early to expect the public to go into an undertaking concerning which it knows next to nothing; but apparently it is thought that any little shortcoming that there may be in this direction is entirely got over by the accountant's certificate, which is rather exceptional. It runs as follows:—

I have made a careful examination into the working of ——— from the date of its establishment down to the present time. Its progress has been continuous, and, upon the basis of its present weekly income and expenditure, I certify that its profits are sufficient to provide interest at the rate of 5 per cent. per annum upon a debenture issue of £25,000, and to also pay dividends upon a share capital of £100,000.

We are not sure that we quite understand what this certificate is intended to convey, but, taking the words employed in their ordinary significance, it seems to us to amount to this: (1) The progress of the undertaking has been continuous down to the present time. Whether the expression "progress" refers to circulation or to profits is, however, not stated. (2) That on the basis of the present weekly income and expenditure the profits are sufficient to provide interest at the rate of 5 per cent. per annum upon the proposed debenture issue, and to leave something for the payment of dividend on the share capital. This, it seems to us, is nothing more than a statement that the last week showed a profit which, if multiplied by 52, would amount to upwards of £1,250. *Prima facie* this certificate estimates yearly profits on the basis of a week's income and expenditure—obviously an entirely insufficient basis to enable one to arrive at any

conclusion whatever as to the probable result of a year's working. The Council of the Institute has more than once in past years deprecated the signing of such certificates as to profits, and no doubt, its attention will be drawn to the matter.

Life-Tenants and Hazardous Investments.

THE decision of Mr. Justice KEKEWICH in *Re Bates*, which we recorded in our Current Law last week, raises a question of considerable interest to all who have to deal with Executorship Accounts, or who have in other ways to determine the respective rights of a tenant-for-life and remainderman.

The rule laid down in *Howe v. Earl of Dartmouth* (7 Ves. 137) was that if a testator gives his personal estate, or the residue thereof, in trust for, or directly to, several persons in succession, and the subject of the bequest is of a wasting nature, the Court implies the intention that such perishable estate shall assume a permanent character, and so be capable of succession. It has accordingly been held that there must be an express direction to that effect before the life-tenant can become entitled to the actual income received from such property; and failing such direction the ordinary rule, although it has been varied from time to time according to special circumstances, seems to be that the life-tenant is only entitled to such income as the trust fund would have produced if realised forthwith and invested in trustee securities.

In *Re Sheldon* (39 Ch.D. 50) Mr. Justice NORTH distinguished between investments which were essentially of a wasting character (or what accountants would call liable to depreciation) and investments in speculative

securities (which accountants would describe as being liable to fluctuation). He held that while in cases where the shrinkage in value was inevitable the rule in *Howe v. Earl of Dartmouth* must in all cases hold in the absence of an express direction to the contrary, in the case of securities liable to fluctuation, and therefore incidentally to loss, a clause empowering trustees to postpone conversion, coupled with a clause directing them to pay over income to a tenant-for-life, must be regarded as in effect adding the speculative security to the authorised list of investments for trust funds, in which event no adequate reason existed for depriving the tenant-for-life of the income actually received, whatever it might be.

Last year, however, Mr. Justice WARRINGTON decided, in *Re Chaytor*, that a mere power to postpone conversion did not *ipso facto* entitle the tenant-for-life to the actual income of unconverted securities of a speculative nature; a decision that would appear to be in direct conflict with that previously cited, and thus, so far as can be gathered, hardly in accordance with precedent.

From the layman's point of view it is decidedly satisfactory to observe that Mr. Justice KEKEWICH has preferred, in *Re Bates*, to follow the rule laid down in the earlier decision by Mr. Justice NORTH, holding that where there is power to postpone conversion, in the absence of express direction to the contrary it is to be assumed that there is a direction that the actual income received by the trustee pending conversion is to be paid to the tenant-for-life. This, it seems to us, is entirely reasonable. The rule in *Howe v. Lord Dartmouth* is doubtless excellent in general terms—for it is quite reasonable to lay down the proposition that, where the testator wishes the tenant-for-

life to enjoy the whole of the income which he formerly had, all that he has to do is to say so. In the absence of any such expression of his desire, it is more reasonable to assume that, as he has left his estate in succession, he has expressed a desire that it should be in such a form as to be actually capable of succession; but a direction authorising investments paying a high rate of interest—and therefore naturally somewhat speculative—to be retained by the trustees is, from an ordinary common-sense point of view, dictated by an appreciation of the fact that the income they may be expected to yield is higher than the income that can be derived from trustee securities. In the absence, therefore, of an express direction to the contrary, the plain common-sense interpretation is that the person to whom the income was left was intended to benefit. That would seem to be the logical conclusion even if there were no outside confirmatory circumstances; but it must, of course, be common knowledge that in nine cases out of ten the life-tenant is the person whom the testator especially desired to benefit, if not the only person with whom he really concerned himself. Practically the only way to leave money to a beneficiary so as to ensure that it shall throughout his life be available as a provision for him to live upon, is to give him merely a life interest without power of anticipation, and with the usual discretionary clause in the event of bankruptcy. In the nature of things there can be no life interest created that does not leave a remainder to be dealt with; but it is noteworthy that, so little has the testator the interests of the remainderman in mind, he not infrequently gives the appointment to the life-tenant—that is to say, provides that the life-tenant shall nominate the person to receive the remainder

after his or her death. In such cases it is manifestly unfair—and we might even say improper—to strain the interpretation of the instrument creating the trust in favour of the remainderman and to the detriment of the life-tenant, in that the only businesslike assumption with regard to the whole matter is that if the testator really desired that the remainderman should, upon coming into possession, come into the possession of an unimpaired estate, he would certainly not go out of his way to permit the investment of any portion thereof in more or less speculative securities—or at all events would not do so, save under the condition that any loss of capital, realised or estimated, was to be made good out of income.

The Criticism of Local Authorities' Accounts.

IN our issue of the 20th ult. we ventured to express the opinion that it was unfortunate that much of the criticism that has been very properly levelled against the financial methods of certain local authorities should prove ineffective by reason of the obvious ignorance of its authors of the technicalities of the subject; and in particular we instanced the report of a meeting held under the auspices of the Bristol Ratepayers' Protection Association, whose grievance, stripped of all its verbiage, appeared to be that the Chairman of the Electricity Committee had sought to save the ratepayers' pockets by capitalising certain expenditure which the Local Government Board regulations required to be met out of current revenue. We further pointed out that there were many local authorities whose conduct was far more open to hostile criticism than that of Bristol appeared to be, and that the general effect of such misguided comments could hardly fail

to be to discredit ratepayers' associations generally, and to strengthen the hands of those local authorities who recklessly wasted public moneys without furnishing any proper account of what they were doing.

Those who have taken the trouble to peruse our comments on the subject of local authorities' accounts during the past ten or fifteen years are hardly likely to accuse us of any bias in favour of municipalism; and indeed, although we have always endeavoured to avoid the political aspect of the matter, we have from time to time been accused of a distinct prejudice against local authorities, and some of the more short-sighted of our readers have urged upon us that the publication of our views, even if justified by the facts, was inexpedient, as tending to evoke the hostility of Progressives to the employment of professional accountants, either for regular audits or special investigations and reports. For our own part, we have always felt that the questions of account that arise from time to time are clearly separable from the question of policy underlying the whole subject of municipal trading, and that the views of a professional accountant upon the matter need not—and under ordinary circumstances are never likely to—interfere with his employment as auditor, so long as he enjoys a reasonable reputation for level-headedness, fairness of judgment, and technical skill. We have therefore, without fear of consequences, and in spite of the protests raised in certain quarters, continued our campaign against the production of unreliable or insufficient accounts, and we propose to continue it until a better state of public opinion prevails with regard to the whole matter.

In the meantime, however, we must confess

to a certain feeling of surprise at the attitude adopted by the *Bristol Guardian* in its issue of the 3rd inst. towards our Weekly Note of the 20th ult., which, we understand, was referred to by the Chairman of the Bristol Electricity Committee upon a recent more or less public occasion. One knows, of course, that the provincial press is not, as a rule, very well served in connection with practical questions of account, and doubtless in our recent comments we have drawn attention to the ridiculous side of the solemn utterances of someone who is apparently regarded as infallible by our provincial contemporary. But, however that may be, we may perhaps be permitted to question whether either the *Bristol Guardian* or the Hon. Secretary of the Bristol Ratepayers' Association improve their position by describing *The Accountant* as "an obscure print," or by hinting that Mr. Alderman PEARSON is responsible for the authorship of the note that has so upset the equilibrium of our contemporary. To suggest that our views upon questions of account can be discredited by such vulgar abuse is, of course, a mere confession of ignorance, which would be humorous were it not for the fact that the *Bristol Guardian's* advocacy of the cause of municipal reform discredits, rather than advances, the cause in question.

But although our contemporary is not likely to cause anything but amusement by its pretended ignorance of our existence and position, it may easily cause misapprehension by its deliberate misquotations of our stated views. We unhesitatingly affirm that no one possessed of the least knowledge of accounts could honestly state that we "appear to hold" that present-day ratepayers ought to be "plundered with impunity for the benefit of

"posterity." On the contrary, we pointed out that the interference of the Bristol Ratepayers' Association, if it produced any practical effect at all, would have the effect of causing the present-day ratepayers to have to find at once the money necessary to pay for expenditure that might legitimately be capitalised, and which would then fall chiefly upon posterity.

Less important, but equally inaccurate, is the statement that we "applauded" the auditors of the last Balance Sheet issued by the Electrical Committee. As our contemporary imputes no blame to these gentlemen, we do not quite know why it should disturb itself about our praise—even had it been given; but, as a matter of fact, we made no reference whatever to the manner in which the two auditors (both Chartered Accountants) had performed their duties. What we did say was that it was a little hard upon the Bristol City Council, if its efforts to secure public confidence and the best possible accounting systems by the regular employment of Chartered Accountants, and the special employment, when necessary, of other experts, were to go for nothing against the unreasoning and ignorant criticism of self-constituted "representatives" of the ratepayers, whose one idea of discussion appears to consist of abuse of a virulent type, which, however suitable (say) to a United States election, seems to our old-fashioned ideas a little out of place in a scientific discussion.

But, however that may be, before our contemporary again accuses us of trying to bolster up an effete and dishonest system of local government, it would, we think, do well to attempt to answer our inquiry as to how the present-day ratepayer of Bristol is to be benefited by an agitation that may cause the Local Government Board to refuse to allow

the Council to borrow the moneys required to enable it to discharge part of its capital expenditure.

Partners' Capital Accounts.

IN a letter which appeared in our last issue a correspondent, signing himself "C. X.," inquired whether we could throw any light upon the origin of the very usual practice of crediting profits to Capital Account in the case of private undertakings, at the same time pointing out that this practice is at variance with the teachings of economists, and not in accordance with the provisions of normal partnership agreements.

We think it probable that the actual origin of this practice of crediting profits to Capital Account is to be found in the system of arriving at profits from books kept by single-entry. Under this system the only way is, by preparing a statement of assets and liabilities, to ascertain the surplus of the former over the latter, and comparing that surplus with the starting capital—making due allowance for additional capital brought into the business and for withdrawals. Under these circumstances it might well be considered that, in point of fact, the capital of the business from time to time was the surplus of assets over liabilities—that profits increased capital and losses reduced it; and this view would certainly be fostered by the practice, very general amongst prudent men of business, of not drawing out the whole of their profits, but allowing such profits as were not required for personal purposes to remain in the business as additional capital. Upon the single-entry system it would, we think, be the most natural thing in the world to from time to time correct

the balance on the Capital Account so that it agreed with the excess of assets over liabilities shown by the periodical statement of affairs.

A very considerable proportion of those men of business of the past generation who now keep their books by double-entry doubtless originally employed single-entry, and it would certainly not be very likely to occur to them to alter the method of stating their Capital Accounts upon the introduction of double-entry, merely in deference to the views of economists, for whom, as likely as not, they entertain a certain amount of contempt. Thus, doubtless, the practice was perpetuated, until now the view of the practical business man is rather one of wonder that lawyers should persistently insert clauses in partnership articles which are never likely to be observed in practice.

In those rare cases where, upon the profits for the year being ascertained, the exact amount thereof is withdrawn by the partners in accordance with the letter of the partnership articles, it is clearly convenient that undivided profits should not be credited *pro tem* to the partners' Capital Accounts, but to the accounts (by whatever name they may be known) which have been debited with the various sums drawn out during the year on account of profits. At the date of the Balance Sheet these accounts would then show a credit balance if there were further profits awaiting withdrawal, and a debit balance if profits had been overdrawn. This practice would be convenient from many points of view, in that it would clearly draw attention to any debt due by a partner to the partnership, which under the terms of the partnership articles was forthwith repayable by him; but in the nature of things such overdrawals are uncommon, and

where they do occur they are usually condoned by the other partners, so that in practice it is but rarely that partners are called upon to forthwith repay the amount of the debt due by them to the partnership. Thus the crediting of profits to Current Account, rather than to Capital Account, has in the vast majority of cases only an academical advantage.

In the case of sound and progressive businesses the rule almost invariably obtains of leaving all profits in excess of a prescribed amount in the business as additional working capital, and in such cases it seems quite natural that the profits should be credited to Capital Account before the closing of the books. One can also readily perceive that the man who is of a less prudent and saving disposition than his neighbours would not be likely to adopt a distinct method of accounting with a view to drawing special attention to the fact. It is true that partnership articles generally provide for additional working capital being contributed by the partners when necessary, as and when they may mutually agree, by way of loans bearing interest at a prescribed rate. In the majority of partnerships, however, capital also carries interest at the same rate, and it would take a mind much more subtle than that of the average business man to appreciate why, under these circumstances, what he regards as additional capital should be dealt with in an account separate from the original capital. He is shrewd enough to know that, if there have been losses instead of profits, the original capital is reduced, whatever economists or lawyers may have to say to the contrary, and finds it difficult to understand the refinement that distinguishes between additions to capital from profits and additional capital. As a question of account, he considers it simpler to have

one account showing how much of the capital of the business as a whole belongs to each separate partner, and he keeps his books accordingly.

The point, however, that he appears to have overlooked is that lawyers, not being in very close touch with business methods, have taken it upon themselves to assume that the purely administrative action of crediting advances or undrawn profits to the partners' Capital Accounts is to be regarded *pro tanto* as a deliberate alteration of the partnership articles, affecting the rights and liabilities of partners *inter se*; which is undoubtedly the very last thing that was intended, or even thought of. A partner may be perfectly willing to increase the amount of his investment in a partnership in consideration of receiving interest on his money, and he may even be willing to do so upon such terms that it is not a loan repayable in preference to capital in the event of the venture for which the money was advanced proving unprofitable, but he does not as a necessary consequence expect to be called upon to lose more than his proportion of whatever losses may be sustained in the event of one of his co-partners being unable to pay his share. It is not, however, always the intentions that count in practice, and in view of the decision in *Garner v. Murray* there can, we think, be little doubt that partners—and particularly those who are men of substance—would be well advised in adhering closely to the theory of Partnership Accounts, keeping their original Capital Accounts intact, keeping Current Accounts showing the amount due to or by each partner that is immediately payable, and Loan Accounts showing additional Capital introduced to, or undrawn profits left in the business by agreement for the purpose of

providing additional working capital. It is of interest to note that this is the method recommended in DICKSEE's "Bookkeeping for Accountant Students" since its first publication in 1893, more especially in view of the fact that it undoubtedly is not the general custom. When, however, our correspondent states that in the majority of text-books upon bookkeeping Capital is defined as "the excess of assets over liabilities" we are inclined to join issue with his implied rebuke, and to say that, properly regarded, Capital is the surplus of assets over liabilities, and therefore in point of fact a continually fluctuating item. For practical purposes of convenience, however, it seems desirable in the case of partnerships, as well as with companies, that the fiction should be observed of recording it as fixed and unalterable, and of crediting or debiting fluctuations to a distinct account or accounts. In the case of an individual trading alone, however, it must, we think, be obvious that it would be in the highest degree absurd to produce a Balance Sheet showing an original Capital of (say) £1,000 upon the left-hand side, and *per contra* a balance of (say) £2,000 as a debt due by the proprietor to the business. The facts in such a case would be that the original Capital had been lost or withdrawn, and being no longer in existence it ought not to appear upon the face of the accounts. The only possible justification for its so appearing would be the ability of the proprietor to bring into the business the amount standing to his debit on Current Account, in which case that balance might in the meanwhile be regarded as a good asset; but to contend that ultimately losses do not reduce Capital, is to shut one's eyes to facts which are really incontestable.

Weekly Notes.

A Curious Advertisement. A subscriber has drawn our attention to an advertisement, which appeared in a recent issue of *The Daily Telegraph*, indicating that a well-educated boy of sixteen is required for audit work by a firm of Chartered Accountants. That, at least, is the interpretation that our correspondent places upon the advertisement, but it is not quite worded in that way, and it appears to us to be at least as likely that the advertiser wishes to secure the services of a youth for checking purposes who has had some acquaintance with auditing in a Chartered Accountant's office. Whether with the age limit imposed he is likely to obtain what he is looking for is, of course, another matter. Assuming our correspondent's interpretation to be correct, it would certainly appear to be undesirable that youths with the very limited experience possible at so early an age should be engaged upon the important work of auditing; but, upon the principle that everything must have a beginning at some time or other, we must confess that we see no particular harm in a practitioner wishing to begin to mould his material at a quite early age. We imagine that, in the ordinary course of events, clients would object to the audit of their accounts being conducted by mere boys, even although accompanied by a senior, and for general purposes, and in the absence of more precise information, we think that they may be safely left to look after their own interests in this respect, even although they can in the nature of things have only limited opportunities of gauging the efficiency of the assistants engaged by their respective professional auditors. At the same time, we should not be greatly surprised to hear that the advertisement in question did not emanate from a firm of Chartered Accountants, but had been inserted by someone interested in discrediting their organisation and methods.

The Form of Municipal Accounts. A municipal accountant has written to us with reference to the views expressed by Major-General Babbage, which appeared in our issue of the 3rd inst. We should have thought it would have been sufficiently clear that the mere insertion in our columns of papers on matters of professional interest must not be taken as necessarily implying our agreement with the views therein expressed; and, indeed, a careful study of our pages will, we think, make it sufficiently evident that the views of Major-General Babbage

are in many respects opposed to our own opinions upon the subject, *vide* the series of articles that commenced in our issue of the 25th August last. Our correspondent points out that while probably nine-tenths of Major-General Babbage's ideas are carried out by quite a number of municipalities, the remainder are either impracticable or out of date. In particular, what was formerly known as the Sheffield system of bookkeeping—embodied in paragraph 37 (p. 547)—has of recent years been abandoned by Sheffield itself in favour of proper Income and Expenditure Accounts; while with regard to paragraphs 29 and 30, it may be pointed out that while the cash system is, with certain important limitations, no doubt suitable to Parliamentary Accounts, it would be quite impossible to conduct trading undertakings upon any other than the ordinary revenue basis. Those of our readers who are interested in this discussion may, we think, refer with advantage to the various papers delivered at the St. Louis Congress in 1904, where they will find the cash basis condemned in somewhat unqualified terms, and full reasons given for its essential unsuitability to latter-day finance.

**The Lapsed
Policies
Question.**

In the House of Commons last week Mr. Myer asked the President of the Board of Trade whether, in view of the sums of money which have accrued to life insurance companies by reason of insurance premiums which are not kept up, he would promote legislation for the purpose of compelling insurance concerns in the future to return at least 75 per cent. of the premiums paid to the assured or his legal representatives. Mr. Kearley, who replied, stated that the Board of Trade could not undertake to promote such legislation.

**Solicitors and the
Half Commission
Question.**

Adverting to our Weekly Note, page 572, on Secret Commissions and the effect of the Act, it is stated by a contemporary that the avarice of the solicitors ought to be curbed, for, not content with being well paid, they insist on the levy under the threat of the employment of a more complacent London broker. It is, moreover, pointed out that local securities are often sent by provincial solicitors to London brokers for purpose of selling, even when there is no possible market in London for such securities. The result is that since the London broker is unable to employ an agent in the proper market (because his

commission is already shared with the solicitor) he is obliged to go to the jobber, and then, of course, the price realised for the benefit of the estate is significant of the transaction. It is furthermore alleged, although the statement can hardly be believed, that the broker is sometimes compelled by the solicitors to charge 1-16th per cent. *ad valorem* for valuing stock for probate. It is said to be a fact that banks are writing to their principals to be allowed to realise the securities of deceaseds' estates, simply, of course, for the purpose of sharing the commission with the broker. As a remedy for these evils—for it must be admitted that they are evils—it is suggested that the London Exchange should agree to a table of fees, and stand by them, as all other properly constituted Exchanges do. It would be interesting to hear the solicitors on their defence, and, doubtless, as the controversy assumes further proportions, their voice will be heard.

**The Borough
Treasurer and the
L.G.B. Audit.**

With reference to the controversy between the Borough Treasurer of East Ham and Mr. Edwyn Hughes, one of the auditors of the Local Government Board, to which we drew attention in our last issue, it may perhaps be of interest to the first-named to learn that many professional accountants make a point of requiring the secretary and responsible manager of a company to sign the accounts submitted for audit before going into the matter at all, or, at all events, before themselves reporting the result of their inquiries; and that a refusal to sign would in the great majority of instances be regarded *prima facie* as matter for suspicion. That the District Auditor has power to require accounts to be verified by declaration does not appear to be disputed, but the contention seems to be that to ask for such a declaration is an offence against the dignity or the susceptibilities of the Borough Treasurer. We may point out that, if a declaration is asked for in all cases as a matter of course, the request cannot be regarded even as an implied reflection of any kind. It would, therefore, obviously be the most convenient practice to so ask for it, and not to keep it in reserve for exceptional cases, where some doubt or controversy arose in the course of the inquiry.

**Company
Winding-up
Business.**

By an order dated the 24th ult. and published, with that celerity for which the Chancery Division is distinguished, on the 10th inst., the Lord Chancellor has provided

that until further order the jurisdiction of the High Court under the Companies (Winding-up) Act, 1890, shall be exercised by Mr. Justice Warrington and Mr. Justice Parker—that is to say, the latter (subject, of course, to questions of seniority) takes the place vacated by Lord Justice Buckley on his promotion to the Court of Appeal. This should prove highly satisfactory, as, although it would be extremely difficult to find an abler authority on company matters than Lord Justice Buckley, Mr. Justice Parker has had a very considerable experience in company matters, both in the Courts and in connection with the question of possible further legislation.

Secretaries and Liquidations. At the fourth general meeting of the Chartered Institute of Secretaries, held on the 6th inst., Mr. A. B. Pilling, who presided, said that referring to the question of liquidation, which offered a very large field for labour, he failed to see any reason why secretaries should not claim a fair share of it. Without going into the question of the desirability of the President of this Institute officially encouraging its members to undertake duties not comprised in or contemplated under its Charter of Incorporation, we may point out that, as matters stand, there are two reasons which, we think, will operate to prevent those secretaries who are not professional accountants, who consider their reputations, and who think what they are doing, from accepting the post of liquidator, save, perhaps, under very exceptional circumstances, and then only in conjunction with a qualified professional accountant. The reasons we refer to are (1) that the training of a secretary in no way qualifies him to fulfil the required duties, and (2) the examinations of the Institute of Secretaries do not in any way test his abilities in this direction. Consequently it is notorious that in shady cases, when it is desired to secure a speedy burial of past irregularities, it is usual for the secretary to be appointed liquidator, with the result that among the more observant the appointment of a secretary to that position is regarded as a *prima facie* ground for further inquiry. Where matters are sufficiently complicated and important there can, of course, be no possible objection to the late secretary, with his first-hand knowledge of past events, being appointed a joint liquidator; but if he takes the appointment alone, or only in conjunction with one of the late directors, it is only reasonable to assume that such a "hole-and-corner" arrangement has been come to with the express

purpose of avoiding the disclosures that would result from the employment of an independent liquidator.

The Sinking Funds of Local Authorities. London borough councils have up to the present borrowed upwards of five millions from the London County Council for electricity works, upon the understanding that a Sinking Fund should be built up to repay these loans during forty-two years. It now appears, however, that in some cases the necessary Sinking Fund instalments have never been set aside, and the question thus arises as to how the deficiencies of the past are to be made good. Incidentally, the facts suggest the absence of sufficient control and inquiry in the past on the part of the London County Council—a slackness, however, for which the Local Government Board has been equally to blame, or the present position of affairs could never have been brought about. It is satisfactory to know that the advent of a new President has at last brought the officials of the Local Government Board to a belated sense of their responsibilities. It remains to be seen, however, whether the London County Council has yet learned to appreciate the seriousness of the financial position into which it is drifting.

Directors v. Auditors. A year or so ago attention was somewhat prominently directed to a case in which the auditors of a company expressed their opinion that a certain item included by the directors among the book debts was not a good debt. The directors joined issue with them on this point, and as a result the auditors were not re-elected. It was somewhat freely stated at the time that the item in dispute was not a debt at all, but an investment in another company in which certain members of the board were interested. The company mentioned in these rumours has now gone into voluntary liquidation with a view to reconstruction, and it will be interesting to know what (if anything) the first company loses by the transaction, and when the directors consider that the money was lost, if they still claim that the auditors' qualification was unwarranted by the facts.

The City Banking Failure. The first meeting of creditors of Messrs. P. Macfadyen & Co., whose stoppage was reported in our issue of the 27th ult., was held on the 8th inst., Mr. E. W. Chapman, Official Receiver, presiding. It is reported that proofs repre-

senting £280,000 had been lodged by 291 creditors, but so far as can at present be gathered, the liabilities appear to be about £470,000, while the assets might be taken at about £20,000. With regard to the causes of failure, the Chairman stated that it was impossible to say how long the firm had been insolvent, as he did not find that any Balance Sheet had been prepared, or the books closed, for some time. During the last two years, however, there had been extensive speculations in copper and tin, the losses upon which were said to have amounted to upwards of £75,000. As the late Mr. Macfadyen died before the date of the receiving order, Mr. Chapman pointed out that it did not operate against his separate estate, but proceedings had been instituted for its administration, and steps would be taken to consolidate them with the present proceedings. Mr. Ernest Cooper, F.C.A., was appointed trustee in the bankruptcy, with a committee of inspection.

Municipal Banks. Our contemporary *The Municipal Journal* is hugely pleased that its recent crude suggestions on municipal banking should have induced various of its correspondents to produce practical suggestions for carrying out municipal banking schemes. From these our contemporary has presumably selected the most practical, and we give it for the benefit of our readers. Municipal banks, we are told, should at once be organised in all the large towns, the bank-notes of which, in convenient amounts, from 5s. to £100, would circulate freely in the area supplied with money by each of these large banks. The smaller towns would obtain their money on mortgage from these large municipal banks just as they now obtain it from the gold-based banks, the all-important difference being that whereas they now have to pay the monopoly price of £4 per £100, they would then only have to pay 10s. per £100, being the actual labour cost of making the bank-notes and keeping the accounts. It is surprising how closely our contemporary seems to have gone into the question of the cost of manufacturing bank-notes, but surely it is a mistake to stop half-way with so brilliant an idea. In addition to receiving gold in sums of from 5s. to £100 and issuing bank-notes in exchange, why does not our contemporary suggest that these large banks should issue loans to the smaller towns also in the form of bank-notes, so that these most desirable securities may be employed by the latter in payment of the various debts incurred by them from time to time? If the scheme be carried out in its entirety, it will be perceived that the actual

labour cost of manufacturing the bank-notes is really all the expense that need be incurred, and that the keeping of the accounts is really a quite unnecessary item.

Municipal Profits and Municipal Prices. At the recent general meeting of the Aerated Bread Company, Lim., the Chairman stated that their company

paid 116 per cent. more per unit for electricity supplied to them by borough councils than for electricity supplied by electric lighting companies. This statement should, we think, be read in conjunction with the plea that so often has been put forward, that it is the function of local authorities engaged in trading not to make huge profits for the relief of rates, but to supply the commodities or services they provide at the lowest possible price consistent with safety. If the experience of a company having branches practically all over London is that the local authorities charge double the amount the proprietary companies do, the conclusion seems irresistible that either the former are making a very much larger profit than the latter, or else that they cannot produce an equally good service at anything less than double the cost.

The Rating of Railways. We have on many occasions pointed out that the lot of the modern railway

company is by no means a happy one in its relations with local authorities, for it has had no voice in the election of those who make the rates, neither has it any control over their expenditure. In addition to this, its own contributions are used in many cases to bolster up its own rivals in the shape of tramways to compete against its local traffic. Although, so far, there has been no combined action on the part of the railway companies (they are not very remarkable for their co-operative efforts) the Midland Railway Company's appeal against its assessment in Hampstead may lead the way to larger issues. It is reported that at the last quinquennial period in 1905 the assessment in question was increased from £9,762 to £14,000 rateable value, a rather large advance, even supposing new property had been added, which does not appear to have been the case. The appeal made by the company was, by consent, referred to Mr. Alfred Lyttleton, K.C., M.P., as arbitrator. After five days' hearing, the local authorities offered to reduce the total rateable value to £5,750 and to pay all the costs, and the railway company agreed to these terms on condition that no increase was to be made in the assessment except for new

property until the next valuation period in 1910. It is said that the saving in rates to the company in question will amount to £2,900 per annum! To the lay mind the most curious part of the case is the extraordinary elasticity in the assessment figures. First it was £9,762, then £14,000, now £5,750! On the face of it, it would appear that the figure £9,762 was absurdly high, and it must be small matter for consolation on the part of shareholders in the concern in question that their directors did not adopt a fighting attitude somewhat earlier.

London and Globe Liquidation. The senior Official Receiver and Liquidator announces that he has realised a further small amount of assets in this liquidation, amounting to about £90, which will permit of a small supplementary dividend to the creditors. It will be remembered that the total claims from creditors amounted to £2,500,000, and dividends amounting to rs. 5½d. in the £ have been paid.

A Long Lease. A recent advertisement in *The Times* is said to have concerned a leasehold ground rent arising out of valuable premises, held for the residue of a term of 20,000 years, subject to a peppercorn rent, and without lessee's covenant or a right of re-entry!

Factors in American Finance. In the course of a recent article in the *Atlantic Monthly*, the commercial editor of the *New York Evening Post* enters into an exhaustive examination of the dominant factors in American finance. The remarks on the history of panics are very instructive, and the cycle theory is ably demonstrated. Mr. Noyes argues that although the evidences of prosperity are numerous, one of his illustrations being the fact that the excess of merchandise exports reached an average of 513 million dollars per annum during the past nine years, nothing can alter the law of financial inflation and depression which treads always on the heels of prosperity. Moreover, the greater the genuine basis of prosperity, the larger the balloon of inflated credit blown by speculators. Details are then given of some signs of the times, among which may be noted the statement that American industries have during the boom period been recapitalised on a basis of immensely extended debt, and in the race for speculative profits some of the largest and strongest banks have been directly or indirectly engaged. Mention is also made of the forcing

up of the Wall Street Stock Market by the virtual cornering of properties with 150 million dollars stock, the constant shortage of available capital, the selling of good commercial paper at 8 per cent., short time loans at 12 per cent. and demand loans at 125 per cent., railway companies forced to borrow on their notes at high rates and for short maturities, capital borrowed from European and American banks used for manipulation of Stock Exchange securities, and daring speculation in both securities and merchandise on a scale of "enormous magnitude." Mr. Noyes claims to state facts without moralising thereon, but if his deductions are correct the coming panic of 1913 will be something to be remembered.

Hinde-Palmer's Act. *The Law Times* says that, although this Act has been on the Statute Book for almost forty years, the effect of its provisions upon the respective rights of specialty and simple contract creditors in the administration of the assets of an insolvent estate have never had to be considered by the Court of Appeal until the recent case of *Re Samson; Robbins v. Alexander*. It seems that two express decisions of Courts of First Instance on the question—namely, *Re Orsmond; Drury v. Orsmond*, and *Re Hankey; Smith v. Hankey*—were absolutely conflicting. Mr. Justice Kekewich in the first of these cases held that, since the effect of the Act was to place simple contract creditors and specialty creditors on an equal footing, an executor might, in the exercise of his right of preference, pay a simple contract creditor in priority to a specialty creditor of the testator. In the other case Mr. Justice North decided exactly to the contrary. The Court of Appeal in construing the Act decided that, since the distinction as regards priority between these two classes of creditors had been abolished, there was nothing to prevent an executor from exercising his right of preference in the due course of administration of the testator's estate.

The Municipal Audit Question. *The Municipal Journal* states that its announcement that the Whitehall authorities are in favour of the extension of the Local Government Board audit scheme has created a great deal of interest in municipal circles. Our contemporary adds that competent auditors are wanted, but it is also desired to be made clear that their function is audit, and nothing more. Furthermore, "there is no guarantee whatever that the appointment of a Government auditor means the examination of public

"accounts by an experienced accountant." We quite agree with the latter portion of our contemporary's argument, but it is just as well to point out that opinions seem to differ as to what is the function of an auditor and what is *not*, as witness the following paragraph, which we extract from a previous issue of *The Municipal Journal* :—

"The municipalities almost as a body are opposed, for instance, to auditors being able to express opinions about the adequacy or otherwise of depreciation and obsolescence provisions, matters upon which it is apparent that in the great majority of cases they can know absolutely nothing. Such things as these are questions of policy which must be left to the councils themselves to decide in the light of their fuller knowledge of local circumstances and conditions. For we take it that even the Local Government Board would not care to essay the task of setting up a uniform depreciation standard."

The Audit of the Accounts of Electrical Undertakings. Some interesting questions were put to the President of the Board of Trade in the House of Commons recently by Dr. Macnamara, which, together with the answers, are not without their significance :—

(1) What was the procedure adopted in regard to the appointment of an auditor of an electric lighting company in London ?

Ans.—The appointment of auditors of the accounts of electric lighting companies in London was made by the Board of Trade in pursuance of provisions inserted in the various companies Orders, and was made annually.

(2) Had the Department made any regulation with reference to such audit ?

Ans.—No.

(3) Had any applications been received from local authorities in London asking to be allowed to attend before such auditor, and, if so, whether the application had been refused by the Board of Trade, and for what reason ?

Ans.—An application *had* been received from the Camberwell local authority and was under consideration. No other application had been made by a metropolitan local authority.

(4) Was the auditor paid directly by the company ?

Ans.—The company paid the auditor's fee to the Board of Trade, and it was passed on from there.

(5) Had the auditor power to disallow or surcharge

any item in the accounts with which he was not satisfied ?

Ans.—The auditor had no power to disallow charges. In the event of his requirements not being complied with he reported to the Board of Trade, and such report, or such portion thereof as the Board of Trade might direct, was required to be appended to the company's annual statement of accounts.

(6) Could the President state whether any effective action of this kind had been taken by such auditor ?

Ans.—The requirements of the auditor were generally met by the company.

(7) Was any public notice of the audit given ?

Ans.—No, since the accounts were not those of a local authority.

(8) Was the President prepared to arrange that the duly appointed representatives of any local authorities might attend such audits in their area and be placed in a similar position to ratepayers at a municipal audit ?

Ans.—Question under consideration, but, if satisfactory arrangements could not be made, he was prepared to consider the necessity of making regulations in the matter.

Re-Issue of Debentures.

To the recent decisions in the cases of *Re George Routledge & Sons, Lim.*, and *Re Tasker & Sons, Lim.*, must be added the case of *Re Perth Electric Tramways, Lim.*, where it was decided that debentures which had been issued in blank to a bank by way of security, and which were handed back to the company in the same state when the loan was paid off, could not be validly reissued to another lender with the blanks filled up, because the first deposit was already an issue in the eyes of the law. The two previous cases, it will be remembered, settled the point that, where there is no express power to reissue a debenture of a series, one of such debentures on being paid off cannot be reissued so as to obtain its old place in the series.

A New Prize Competition.

Considerable ingenuity is often shown in the framing of "objects" clauses in memoranda of association, but the palm must be given to a recently-registered concern, which, it is said, takes power in its charter of incorporation to do the following acts :—

Manufacture Artificial Stone, Bricks, Tiles, &c.

Carry on the business of Paviers; Artificial Stone dealers; Chemists; Druggists; Drysalts; Oil and

colourmen; Manufacturers of and dealers in Pharmaceutical, Medicinal, Chemical and Industrial compounds, &c.; Oils, &c.

Electrical, chemical, photographic, surgical, and scientific apparatus and materials.

Cotton spinners and doublers; Calico printers; Flax, hemp, and jute spinners; Linen manufacturers; Flax, hemp, and jute merchants; Woolcombers and merchants; &c.

Power suppliers.

Perhaps the most amusing part of the incident is that the name of the concern which is said to take such encyclopædic powers is "Hough's Boilers"!!! The enterprising snippet weeklies might do worse than institute a new guessing competition on these lines.

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinion expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Debenture-holders and Apprentices.

(To the Editor of The Accountant.)

SIR,—There seems to be some misunderstanding on this question as shown by the correspondence in your columns. The original question was whether a receiver of a company (which is also in liquidation) must pay an apprentice in full. A further question was asked as to the procedure in a voluntary liquidation. Your reply (15th September) only refers to a liquidator, and not to a receiver, and, I think, was correct. "G. F. C." then takes up the point that Section 10, Judicature Act, 1875 (dealing with the rights of creditors in a *winding-up*, where there are insufficient assets), imports the bankruptcy rule. It seems to me that Mr. S. S. Dawson is quite right that an apprentice has no rights whatever against a receiver for preferential treatment. The Preferential Payment Acts do not apply to an apprentice. Section 41, Bankruptcy Act, 1883, provides that

where the bankruptcy trustee does not transfer the articles to another person he may, subject to appeal to the Court, pay the apprentice such sum as he thinks reasonable. This sum would come after the costs and preferential payments, but before the unsecured creditors. Whether by reason of Section 10 (above) this will apply to a liquidation does not seem to have been decided. Although Section 10 settles that the rights of creditors shall be the same as in bankruptcy, there is no provision in the Companies Acts for fixing the sum payable to the apprentice, such as is given in Section 41. There would seem to be no method of paying an apprentice preferentially in a winding-up, unless it can be done under Section 159, Companies Act, 1862, which is doubtful.

Yours obediently,

12th November 1906.

DAVID P. DAVIES.

[Under the actual circumstances of the case, as stated in your issue of the 15th September, I agree with Mr. Dawson's view as expressed in your issue of 10th inst., that the Bankruptcy Act, Section 41, has no application, the Judicature Act, 1875, Section 10, not being concerned with debenture-holders' actions, which, to all intents and purposes, the proceedings in question are. Mr. Dawson, however, goes on to submit that Section 10 does not attempt to assimilate bankruptcy procedure (as regards priority) with winding-up administration. Here again, speaking by the card, I suppose I ought to agree with Mr. Dawson, for the Act does nothing of the kind, but I am not quite so sure that it does not attempt to assimilate company winding-up administration (as regards priority) with bankruptcy procedure.

Putting aside the words "secured and unsecured creditors" in the section as having no bearing on the point at issue, although, having regard to what is said as to them by Vaughan Williams, L.J., in *In re Whitaker* (1901, 1 Ch., p. 13), it is questionable whether I am not thereby conceding too much, the section runs: "The same rules shall prevail and be observed . . . as to debts and liabilities provable . . . as may be in force for the time being under the law of bankruptcy." Now, in *In re Long* (1895, 1 Ch. 652, p. 657) Lord Lindley (then Lindley, L.J.) says: "Construing Section 10 of the Judicature Act, 1875, by the decisions, and by the express provision of Section 1, Sub-section 6, of the Act of 1888 the rules in bankruptcy as to debts and liabilities provable must now,

"I think, include all rules as to priorities expressly enacted by any statute, and made applicable in the event of bankruptcy."

Later on in his judgment the same learned Lord Justice, referring to Section 3 of the Married Women's Property Act, 1882, says that it is really a statutory rule postponing a wife's claim against her husband's estate in bankruptcy to the claims of his other creditors, and is therefore one of the rules as to debts provable which by Section 10 of the Judicature Act, 1875, have to be observed in administering the estates of deceased insolvents. Surely, then, it may be argued that Section 41 of the Bankruptcy Act, which gives a direct preference, is equally one of the rules as to debts provable as one under the Married Women's Property Act constituting a deferred claim.

The judgment of Smith, L.J., is to the same effect.

The judgment of Romer, L.J., in *In re Whitaker* (1901, 1 Ch.), at p. 14, is also instructive, he says: "The section (10 of the Judicature Act, 1875) does not say that only the rules as to what debts and liabilities shall be provable are to prevail; it speaks of all rules as to debts and liabilities provable. It appears to me that if there be a rule in bankruptcy that a debt shall be provable, but only in an inferior position to ordinary debts, that would be a rule 'as to' that provable debt within the meaning of the section. And so if there be a rule in bankruptcy that certain debts shall be provable, but in a superior position."—OUR LEGAL CONTRIBUTOR.]

Company's Register of Mortgages.

(To the Editor of The Accountant.)

SIR,—I will be glad to have your opinion on the following matters.

The A. Co., Lim., and the B. Co., Lim., were incorporated in 1895, and both companies deposited their title deeds with bankers to secure an overdraft. In 1906 these two companies were amalgamated, the A. Co., Lim., having its title changed to the A. & B. Co., Lim., and the B. Co., Lim., being wound up; the title deeds of B. Co., Lim., and conveyance of properties to A. & B. Co., Lim., were deposited with their bankers, who were the bankers to both companies, and the solicitor advises that this equitable mortgage should be entered in the Mortgage Register, but the directors think it is not necessary.

What I wish to know is, whether in this case the deposit of deeds is to be considered as a new trans-

action, and also whether it is necessary in any case to register an equitable mortgage of this nature?

Yours truly,

12th November 1906.

MORTGAGE.

Re Harringtons, Lim.

(To the Editor of The Accountant.)

SIR,—My attention has been drawn to a paragraph, which appeared in your issue of the 27th ult., in reference to the auditorship of this company. I beg to inform you that on Mr. Plender being made acquainted with the resolution as to his appointment in place of the retiring auditor, who offered himself for re-election, Mr. Plender replied immediately to the secretary's communication, to the effect that he was unable to accept the appointment.

I am, dear Sir, faithfully yours,

H. J. STOKES,

November 7th 1906. Chairman Harringtons, Lim.

[This is quite what we should have expected. It would, however, be interesting to know what will now be done.—ED. ACCT.]

The Salary of a Bankrupt.

(To the Editor of The Accountant.)

SIR,—It would seem that one of the privileges of a County Court Judge is the right to occasionally startle timid people by a disturbing judgment upon matters long since deemed to have been settled. This time the Bradford Judge is guilty.

If Section 53, Bankruptcy Act, 1883, were quite a new one, and there were no decided cases on the point, I am inclined to think that our Judges would to-day hold that it had no application to any pay other than out of public fund, Sub-section 1 referring to a bankrupt receiving pay for present employment, and Sub-section 2 referring to pay for past employment. This would still leave power under Section 44 to attach the personal earnings of a bankrupt, so far as unnecessary for the support of himself and his family. The only difficulty in thus construing Section 53 is that we do not usually apply the term "salary or income" except where current employment is concerned, but this section and the rules and forms would seem to admit of this interpretation more readily than any other. If these words, "salary or income," had not been interpolated, the

section would have been quite clear. Be that as it may, the Courts have settled that it applies to every bankrupt.

The decision is not a binding one, and I do not think it will ever be made binding. It has been long since laid down that to render a salary liable in part to attachment there must at least be some "element of periodicity," and that weekly earnings—that is, paid weekly under employment and subject to a week's notice—are not liable to attachment. The *Shine* case, which the Judge followed, is really not applicable, as *Shine* was under a contract of employment for two years, although the salary was paid weekly. I think an appeal will restore the older authorities.

Yours obediently,

12th November 1906. DAVID P. DAVIES.

Auditor's Lien on Books and Documents.

(To the Editor of The Accountant.)

SIR,—I should be glad to have your valuable opinion on the following case.

A limited company sent several Loose-leaf Ledgers to an accountant for the purposes of audit. The company has not paid the auditor's charges, and the Ledgers remain at his office. If the auditor returns the leaves on which entries have been made, has he a lien on the leafless Ledgers?

I am, Sir, your obedient servant,

12th November 1906. HECTOR.

[No.—ED. ACCT.]

Income Tax—Time for Application for Repayment.

(To the Editor of The Accountant.)

SIR,—I shall be obliged if any of your correspondents could tell me the general interpretation placed by Surveyors of Taxes upon the words "if within, or at the end of the year" in the 133rd Section of the 1842 Income Tax Act. I have always understood, and I think it has been stated in lectures, that the Inland Revenue authorities allowed taxpayers, as a matter of right, twelve months from the end of the financial year concerned for claiming repayment, but the Surveyor in my district has just told me that the local Commissioners (no doubt upon his instructions) will only allow six months from the end of the period to which the accounts relate—i.e., with accounts made up to

December 31st, a repayment claim must now be made before the following 30th June instead of before the 5th April of the year but one following, which has, in fact, been the previous local practice. The Surveyor contends that the limit of twelve months is simply the extreme one which the Inland Revenue will, under any circumstances, recognise as the limit for making claims, although his predecessors have allowed claims made within that time as a matter of course.

I should like to know whether the reduced limit of time now allowed locally conforms to the general practice of Surveyors in other districts, or whether we here are being treated with exceptional severity.

Yours faithfully,

7th November 1906.

KARL.

[There is no general practice: it is certainly desirable to make the application directly the facts are known.—ED. ACCT.]

Compensation under the Licensing Act, 1904.

(To the Editor of The Accountant.)

SIR,—In reply to Mr. S. S. Dawson's letter appearing in your issue of 10th inst., I would point out that in the case quoted I have assumed that the lease granted to the brewers has not been cancelled upon the escheatment of the licence, and therefore the lessor will not suffer any loss of income until the expiration of the lease. Failing any special arrangement, this would be the usual course. Leases of properties upon which there is an excise licence frequently contain among other covenants one throwing upon the lessee the onus of keeping up the licence, the lessor (sometimes) undertaking to do any structural alterations, but a clause cancelling the lease in the event of the loss of the licence through no fault of the lessee will probably have to be inserted in the future in view of the operation of the Act. In cases where it is desired to cancel the lease the question at present is one for special arrangement between the parties directly concerned, and usually an amicable settlement mutually agreeable to the parties can be arranged; but where this is not possible the brewers usually sublease the premises, as soon as the necessary alterations are completed, for the remainder of their term, disposing of their interest in the property at the earliest possible moment in order to use the proceeds in the ordinary channels of their business.

As regards the second point raised by Mr. Dawson,

provided that each interested party is satisfied with the reduced amounts awarded, I see no reason why each should not bear his own loss. The chief aim in these cases is to have mutual agreement among the interested parties prior to the supplemental meeting as to the total amount of compensation to be claimed and its distribution between them, as otherwise a considerable portion of the compensation money may be frittered away in costs. At the supplemental meeting of the compensation authority in cases where the amount of compensation claimed has been agreed by the valuers representing the authority and those representing the interested parties, "a written statement to that effect containing the sum agreed upon, signed by or on behalf of all those persons, must be lodged with the compensation authority at the meeting or previously thereto" (H.O.R. 29), and if approved by the authority such amount will be awarded. This statement is in the form of a single document (H.O.F. 10), signed by all the parties interested (lessor, lessee, sub-lessee, mortgagee, if any, tenant, and manager). In the event of the total claim for compensation not being approved by Quarter Sessions, Section 2, Sub-section 2, of the Act provides that the matter shall be referred to the Commissioners of Inland Revenue subject to appeal to the High Court, while Sub-section 4 provides that the Commissioners' costs shall be paid out of the amount to be paid as compensation, *unless the High Court order those costs to be paid by some other party to the suit*. The costs, therefore, in either case falling upon one or other of the interested parties. On the other hand, under Section 2, Sub-section 3, the compensation authority may refer to the County Court any question as to the *division* of the amount of compensation which the authority consider can be more conveniently determined by that Court.

I am, Sir, your obedient servant,

W. C. NORTHCOTT.

London, 13th November 1906.

Bristol Society of Chartered Accountants.

A MEETING of the above Society will be held at the Grand Hotel, Bristol, on Friday, the 7th December, at 5.30 p.m., when a paper will be read by Mr. Walter Strachan, Barrister-at-Law, on "Some difficulties in Trust Accounts."

The chair will be taken by Mr. John Ball Ball, Vice-

President of the Institute, and the Hon. George Colville, Secretary of the Institute, will be present, and will take part in the discussion.

The Council of the Society hope that every member will do his utmost to be present on this occasion, as Mr. Strachan's subject should prove of very general interest to the profession.

Arrangements are being made for a dinner to be held after the meeting at 8 o'clock. Tickets one guinea each, including wine, or 12s. 6d. without wine. It will greatly facilitate matters if members will notify the Secretary on or before the 30th inst. whether they will require tickets.

Factory Accounting as Applied to Machine Shops.—I.

By JOHN WHITMORE.

(Reprinted from *The Journal of Accountancy*, N.Y.)

THE present articles upon Machine Shop Accounts are based upon four lectures given before the School of Commerce, Accounts, and Finance, of New York University, last winter. These lectures were given under the title of "Factory Accounting," and it is as an aspect, or a particular development, of factory accounting in general that Machine Shop Accounts in particular were treated of. Or it may be said that Machine Shop Accounts were chosen for the purpose of furnishing a convenient means of introduction to the general principles of factory accounting, because the particular methods developed in them have a wide application in other industries.

The reason for this is, of course, plain. A large part of the equipment of every factory is mechanical, and the operation of the machinery is necessarily to some extent recorded by methods parallel to those used to record the operation of the machinery in machine shops. The operations themselves are different and the materials worked are different, and the accounting methods are specialised in each industry in a manner that may have little relationship to any other, except that they always embody the principle of double-entry bookkeeping and always follow the operations as closely as available data will permit. But in every industry we have the accounting which is necessary to the operation of machinery; that is, if the standard of economy attained in its operation is to be determined, or if the cost of its operation is to be traced to particular products, and the methods of this accounting can best be made plain in connection with the operations of machine shops themselves.

Again in every factory there are repair operations, which are, generally speaking, either machine shop operations or carpenter shop operations, to which the accounting methods of machine shops conform; while in the larger factories of every industry there are larger or smaller machine shops for construction and repair work.

And, generally speaking, there is in every factory the development and utilisation of power, the accounting for which is largely an engineering problem, and may best be considered in connection with the industry in which the power equipment is produced and over which the mechanical engineer especially presides.

Again, the storehouses of the various industries are subject to many conditions which seem peculiar to themselves, but which are rarely radically different from the conditions existing in machine shop storehouses.

So that it seems plain that in every industry a thorough accounting must be in part accomplished by the methods necessary in machine shops, while in every industry there must be made departures to faithfully follow operations which are unlike machine shop operations. A clear perception of the similarities and the dissimilarities is one of the great essentials to the practice of factory accounting. The fundamental principle is always the same—namely, the principle of making a record sufficiently full to constitute a clear accounting for the factory expenditure; and the object of the accounts is always the same—namely, to eliminate waste from the operations. This, then, may be said to be the purpose of all factory accounting: to produce records in which waste shall be plainly shown as waste.

It cannot be perfectly accomplished, because waste in factories is of too complex, or rather of too obscure and elusive, a character. To perfectly economical production there are two things principally necessary, and the vital importance of neither one nor the other seems ever fully appreciated—the first is the full utilisation of factory capacity, and the second the development of mutual interest between employer and employee. The first of these is quite properly a subject for factory accounting, and the second at least to the extent that accounting may help to determine the true conditions of mutual interest.

It may almost be said that economy in production is attained if this single condition is fulfilled—namely, that factory capacity be fully utilised. This does not mean merely that every machine shall be in constant operation, but that it shall be constantly operated to the maximum advantage. If materials worked upon are spoiled the factory capacity that has been employed upon them is wasted. If a machine is employed upon less important work than that for which it was designed and is fitted, its

capacity is partly wasted. If labour or management is inefficient and a machine is slackly operated, or the processes are ill arranged, capacity is wasted.

When it is borne in mind that the capacity of the business organisation is limited by the capacity of the factory, and that machinery and organisation expenses constitute an ever-increasing percentage of the cost of the product, the vital importance of the fullest possible utilisation of factory capacity begins to be plain. And it is useful to bear in mind that it is through the study of the factory capacity, and through the accounting that may be set up in relation to it, that the most perfect test of efficiency is arrived at.

The aim of the modern developments of machinery has been to reduce the labour required in the immediate processes of manufacturing. That is to say, in order to manufacture goods of a certain class it is found to be most economical to first expend labour in the production of machinery, and to expend labour very freely in the production of machinery of high efficiency, and then to expend, relatively to what would otherwise have been necessary, very little labour in producing the goods by the operation of the machinery. The investment in machinery and the expenses, other than labour, attaching to its operation are systematically increased. Everything then depends upon whether the plant is so operated as to secure the final economy that has been aimed at. To provide that it shall be so operated a more or less expensive organisation has to be created. Two heavy expenses are thus incurred: First, machinery expense; second, organisation expense. But if the machinery is fitted for its purpose and the organisation is efficient, a product is obtained at a lower final cost than is possible under conditions which do not include these large preliminary outlays.

It is these altered conditions that makes necessary the modern systematic factory accounting. The old methods are obviously inadequate, and as means of determining costs are simply a failure, because accurate cost figures cannot, under the newer conditions, be arrived at by them.

In the first of the lectures alluded to somewhat extended reference was made to two works. The first is Garcke & Fells' "Factory Accounting," published in London in 1887, and the second a series of six articles written by Mr. A. Hamilton Church and published in the "Engineering Magazine" from July to December 1901, under the title of "The Proper Distribution of the Factory Expense Burden." Messrs. Garcke & Fells' book was probably the first serious attempt to give systematic accuracy to factory records by embodying in them the principle of double-entry bookkeeping, and it also went far to indicate the varied and practical uses of modern factory accounting. Mr. Church's articles, written with an

engineer's knowledge of modern machine shop conditions, constitute an exceedingly valuable and relatively exhaustive essay upon the subject indicated by their title.

Messrs. Garcke & Fells described the methods prevailing at the time their book was written. They said that some manufacturers added a percentage to "prime cost"—*i.e.*, the cost of material and direct labour—and some added one percentage to materials and another to direct labour, and some a single percentage to direct labour. They speak also of some existing use of machine rates—*i.e.*, charges per hour for the use of the various machines—and they outline a method of determining and using machine rates. According to this method there were taken into consideration the original cost of the machine, its estimated hours of working life, its cost of maintenance, and its residual value; and a "Plant Ledger" was to be kept with an account for each machine, and these accounts were to be charged with original cost and with maintenance expenditure, and credited with the machine rates charged in the Cost Accounts, treating then the balances of each machine account as the present value of the machine. It will be seen that this involved charging all repairs to the Capital Plant Accounts in the general books, and writing off depreciation rates which would cover both repairs and the depreciation which goes on in spite of repairs.

Messrs. Garcke & Fells' preference was evidently for the use of these machine rates to charge Cost Accounts with the expenses of the maintenance and depreciation of the machines actually employed in production, and as to all other factory general charges to periodically ascertain their total and to distribute this as a percentage upon the direct labour expenditure, charging the various Cost Accounts accordingly.

As has already been said, there is in modern factory development, along with the reduction of the direct cost of processes, a tendency to increased indirect or organisation expenses; and with the reduction of direct labour there is inevitably increased plant expense. At the time Messrs. Garcke & Fells published their book they said that many manufacturers were still content to take out "prime cost" merely—*i.e.*, only the expense of materials and direct labour. Evidently these manufacturers were following methods that belonged to earlier conditions of the manufacturing industries when machine and organisation expenses were relatively small factors in the cost of production, and more progressive manufacturers were giving some careful consideration to the manner in which machine and organisation expenses actually entered into the costs of the various products. As then machine tools were more highly developed, and as factories were organised on a still larger scale, it gradually became plain that with only the cost of materials and direct labour actually determined,

and with ever-increasing items of machine and organisation expenses roughly and arbitrarily distributed, the cost figures arrived at meant little or nothing.

If manufacturers generally were slow to realise the effect of the changed conditions upon necessary methods of calculating costs, it had been noted elsewhere and plainly set out. Professor Davidson, of the University of New Brunswick, in a book entitled "The Bargain Theory of Wages," published in 1898, said: "Labour cost without 'machinery is a different thing from labour cost with 'machinery. We must include in the real labour cost of 'production in machinery industry the cost of the labour-saving machine—that is, the expenses of its working, and 'the contribution to the sinking fund to replace the 'machine. Machinery has to a large extent reduced the 'nominal labour cost, but statistics are lacking to show 'how far the real and complete labour cost has been 'reduced."

The necessities of the new situation, as far as machine shops are concerned, were very fully considered and dealt with in Mr. Church's articles in the "Engineering Magazine," already referred to. Mr. Church deals with the various older methods of distributing indirect expenses, and makes very plain, as indeed it is not difficult to do, their inadequacy and their random character in relation to modern shop conditions. He then proceeds to develop a machine rate that shall express the hourly cost of the machine as nearly as possible in the same way that a workman's hourly rate expresses the cost of his labour. This is done by simply compiling the cost of providing a given machine, together with all its accessories, and under working conditions. The capital investment is represented in this cost by an interest charge. The annual expense arrived at is reduced to an expense per hour. Then the time a machine is taken up a given job is recorded, and the job is charged with so many hours at so much per hour.

It is proposed to carefully consider two features of Mr. Church's plan. The first is the inclusion of interest on investment of capital as part of the cost of production; and the second is the "Supplementary Rate," by which Mr. Church takes up and charges against the products the expenses running against the machines in idle hours.

The first of these deserves careful consideration, because it has not been customary to include interest on capital in cost of production, and the idea of doing so is one that both manufacturers and accountants commonly feel some reluctance to adopt. Yet its inclusion is essential to an accurate distinction between varying costs.

Nor apparently has interest on capital been omitted from the cost of production without some careful consideration

Messrs. Garcke & Fells say: "The establishment charges "and interest on capital should not in any case form part "of the cost of production—there is no advantage in distributing these items over the various transactions." And again: "The principals of a business acquainted with "its details can always judge what percentage of gross "profit upon cost is necessary to cover fixed establishment "charges." As related to interest on capital this is true under simple conditions, and becomes very doubtful under the complex conditions of a large plant with a varied equipment and a varied output. It is obvious that in different industries there is a very different ratio between a given rate of interest upon the capital employed and the other costs of production. In other words, in order to pay a given rate of return upon the capital invested, a much larger percentage of profit is necessary in some industries than in others. Every manufacturer knows what rate of profit he must make in order to get a certain return upon his capital. Suppose now that a large plant includes what elsewhere exists as several separate industries, foundries, forges, machine shops, carpenter shops, and so on, and suppose that the output of these departments is not always combined in something like similar proportions in the finished product, but that the product may even occasionally be that of a single department. To apply always an average percentage of profit as necessary may be to introduce into a competing price on certain articles a figure that does not belong to the single industry in which these articles are produced, and which does not exist for competitors who are engaged in the single industry. Or suppose that a concern has two competitors, one making one class of goods and another making another class, and that these two competitors employ capital in different proportions to output. Each knows "what percentage of profit upon cost is necessary," and in the two cases it is not the same. But the single concern producing both classes of goods knows only one percentage. It is plain where the advantage lies in accurate knowledge of costs and in making competing prices.

Again, the same goods made with equal economy by two concerns should naturally have the same cost price. But if one rents what another owns, perhaps by means of having borrowed money upon which it pays interest, either one must exclude rent from its cost or the other must include interest on capital, or one will have one cost price and the other another. In such a case to include interest on capital might not, and probably would not, absolutely equalise conditions, but it does so as far as is possible in accordance with existing facts.

In order to simply illustrate a matter like this it is necessary to take its simpler phases. But in large and complex manufacturing concerns the variations in the relationship

between interest on capital employed and other costs are not simple and obvious, but often numerous and obscure, and it follows that a uniform addition to other costs in order to provide remuneration for capital employed in production will not result in a true statement of total cost or a just basis for selling prices.

The second feature of Mr. Church's plan that it is necessary to consider carefully is the "Supplementary Rate," by which the expenses attaching to idle machines are dealt with. Mr. Church's supplementary rate includes other charges in addition to idle machine charges, but it is in relation to the latter that it is considered here. For the sake of clearness it will be well to explain first exactly how the machine rate, which runs against the machine whether it is operated or idle, is built up.

The first consideration is the cost of factory floor-space. This cost consists of interest on the investment in land and buildings, repairs and depreciation on buildings, and the expense of heating and lighting buildings. If all the factory space is of similar character, the cost of the square foot of floor-space is arrived at by dividing the total cost by the total square feet. It is, however, plain that if for some special purpose a room having additional height were necessary, there would be increased cost of providing floor-space in such a room. And if a building of one story were needed, to combine with ground-floor space, overhead light, and ventilation, the investment and the expenses per square foot of floor space in such a building would be very much increased. When the total expense of factory space is arrived at, it is not especially difficult upon careful examination to make the distinctions necessary in order to determine the cost that properly attaches to each building and to each room. Such distinctions are constantly made, and probably with great accuracy, for the purpose of fixing rents.

In the case of a machine shop the space occupied by each machine has next to be determined, in order to include in the machine rate the number of square feet of floor space occupied, at the cost per square foot. This is the first item in the machine rate.

Then follows the expenses of the machine itself. Interest on the investment in the machine, the annual repairs and depreciation charge, and other expenses which upon thorough analysis of the expense accounts are found to attach to the individual machines, or to be capable of being apportioned to them. It is not necessary to go into these for the immediate purpose, and they will be dealt with fully in due course. The expense of power gives a separate rate only chargeable to the machine running.

The total of the expenses to be included in the machine rate being arrived at, it is divided by the total working

hours in the year, less a reasonable deduction for minimum lost time, and the hourly rate for the machine is arrived at.

If, then, a machine is idle for a day or a week the expenses which attach to that machine during that idle time have to be disposed of, and Mr. Church includes them with the quite indirect and general expenses of the shop, and divides the total by the number of machine hours operated, and the rate so arrived at is added to the machine charges in the Cost Accounts for jobs worked upon. Mr. Church lays emphasis on the fact that the rise or fall of the supplementary rate indicates the fuller or slacker operation of the shops, and provides perhaps certain other gauges of efficiency.

It is one of the purposes of these articles to advocate a different method of dealing with the expenses of factory capacity idle.

It has been seen that the great reason for including interest on capital in the cost of products is that then, whatever the peculiarity of circumstances, the method is always adjusted to them, and costs are always stated on a single and sound basis. We need to deal with the cost of factory capacity idle by a method for which the same thing can be said.

Obviously no method can fulfil this condition that provides for charging into the cost of products the expense of factory capacity idle. The cost figure for any article depends then for one thing upon certain arbitrary divisions of time. If the distribution is made monthly an article produced in the first week of the month will have its cost increased by machinery being idle in the last week. If the distribution is semi-monthly this would not be the case. No article produced in the month would have the same cost under the monthly as under the semi-monthly distribution. This aspect of the matter would possibly not be of great importance if all goods were made for immediate sale, and consequently a cost statement were seen once for what it is and then disposed of. But in machine shops a considerable part of the manufacture is of standardised parts for the storehouse, and these go into store at their cost figures, and later on are drawn out with other parts and assembled. If in the cost of each part there is the ever varying accident of the charge for machines not operated in one month or another, the final cost of an assembled article is not of a known character—it may include much or little expense for machines idle. An economy might have been effected in its production since the last time it was made, and it might yet show a higher cost. Everything, of course, is traceable, but in actual practice there is not time to trace everything. Moreover, to trace such a difference would only be to arrive at facts that had already been known at

the proper time, and cost figures should not, if it can be avoided, raise questions uselessly.

But there are other conditions under which the attempt to take up in the cost prices of products all expenses of factory capacity idle, results in producing figures that are without significance and can only cause confusion and error. Such conditions exist, for instance, when a new producer enters the market. Factory capacity has been created and put into operation, and the competition of older concerns has to be met with the most careful judgment. The factory output is necessarily small at the very first. What is the cost of the product during that period in which operations are being gradually increased? Possibly, in one sense, it is such figures as will absorb all the factory expenses, but it will serve one's purpose just as well to know that fact in bulk as in detail, and if one has Factory Accounts they should show something different from this.

If the Factory Accounts, under such circumstances, aim to determine the proper and necessary cost of the product by separating the cost of that capacity which is as yet not used, they will give figures disentangled from the temporary and unavoidable condition of under-operation. Such figures will determine whether proper conditions have been created in the factory, and whether, subject only to selling a full output, one can manufacture at a profit or whether defects in equipment or processes need remedying.

What, then, is to be done under these and under any other circumstances with the expenses of factory capacity idle? What treatment of the matter will keep one's cost figures, in relation to this also, always on a single and sound basis?

If there exists in a factory a recurring loss of a certain character, not necessarily incident to the turning out of the factory product, but on the other hand an avoidable loss, or at least a loss that will be greater or less according to the efficiency of the shop or commercial management, the best way to treat that loss in the books is to open a separate and conspicuous account for it, and it would be worth while to open such an account for the expense of "Factory Capacity Idle," even if it were proposed afterwards to absorb it into the cost of products. It is in this case not proposed to absorb it into the cost of products, but to keep the costs of the products of the factory operated and the cost of the factory idle separate from one another.

The full operation of a factory depends upon engineering and commercial efficiency, and upon efficiency of shop management. If the cost of falling short of full operation is constantly and clearly stated, the units of idle capacity being identified and the causes traceable, there is created entirely new likelihood that effective remedies will be applied.

It is the distinguishing mark of a true method that it does not merely accomplish an immediate desired end, but that all its remoter operation is beneficial, in ways foreseen and in ways unforeseen. The abandonment of percentages making a simply inaccurate distribution of certain expenses, and the substitution of the individual machine charge, lead to the exact statement of capacity unused, and this sets at work influences tending to bring that unused capacity into operation. This it does first by relieving cost prices of a burden that does not belong to them, thereby creating immediately a better condition commercially, and next by bringing into plain view the cost of idle factory capacity, and making it possible to trace its causes and to fix responsibility for it, and to secure earnest and well-directed efforts to remedy it. It will be seen when the possibilities of the organisation of other departments are considered that the mere fact of there being a record of idle machines will tend to bring them into use by securing a more even distribution of work throughout shops and throughout a period of time. And finally there will be noted the effect of it all upon the steady employment of labour, in simple illustration of the principle, which we shall later on see operating in equally certain but less obvious ways, that the interests of the employer and the employed are not antagonistic, but are one.

In the succeeding articles it is proposed to deal in detail with the organisation of the shop accounts and records, and with their uses.

Legal Studies and Universities.

(From *The Law Journal*.)

THE Lord Chief Justice presided on the 7th inst. at an inaugural lecture delivered by Sir Thomas Raleigh at King's College on "Legal Studies in the University of London." Among those present were Lord Justice Cozens-Hardy, Sir John Macdonnell, Sir Albert Rollit, Dr. Blake Odgers, K.C., Mr. English Harrison, K.C., Mr. Vezey Fitzgerald, K.C., Mr. Boydell Houghton, Professor Jenks, and Mr. Bailly Saunders.

Sir Thomas Raleigh said that the University of London was inaugurating a new scheme of lectures in law, the object of which was to combine the teaching resources of University College, King's College, and the London School of Economics. There was a need for a place near the Law Courts where teachers and students could meet. He placed the professional students in three categories. In the first were the intending members of the solicitors' profession, who entered on their office work as soon as they left school. In the second were those intending

members of the solicitors' profession who were University men and went to office work at a later age. In the third category were those who were reading for the Bar. The present scheme of lectures and tutorial instruction was in some points open to criticism. The Inns of Court had consistently refused to enter into co-operation with other persons interested in legal study. They had refused to accept Oxford University examinations in certain subjects, and in 1900 the Inns of Court would not go into the London University scheme. He thought the Inns of Court should extend their present limits, alter the constitution of the Council of Legal Education so as to give those engaged in teaching law a fair share of administrative power, take an interest in legal education everywhere, and make some effort to revive something of the collegiate life of their ancient societies.

The Lord Chief Justice, in moving a vote of thanks to Sir Thomas Raleigh, doubted whether it was possible to restore the old domestic atmosphere of the Inns of Court. Students, however, had the advantage of advice in their work. He could never be a party to any scheme which side by side with educational reform contemplated a great constitutional change in the Inns of Court or in the relation of barrister and solicitor. To combine the two branches of the profession would be a retrograde step. Let them make the transition from one branch to the other as easy as they pleased, but let them maintain the marked distinction which existed between the position of the advocate and that of the solicitor. He sincerely hoped that whatever changes were made with regard to legal study they would be made supplementary to general education. They would do harm to the profession if legal knowledge were given at the expense of general education. He thought that too little recognition was given by the Inns of Court to the study of law as a science, and he would encourage the scientific study of the theory of the law as a branch of legal education before starting on the actual work of life. He was in favour of the Inns of Court recognising University examinations in such branches of the law as could properly be studied at the University. But it was the distinct province of the Inns of Court and the Law Society, which they ought to maintain as their right, to see that a man was qualified for the active work of the profession.

Lord Justice Cozens-Hardy, in seconding the motion, said he was not quite sure that Sir Thomas Raleigh had done justice to the present work of the Council of Legal Education. They had appointed a director of legal studies who was ready always to give assistance to the students, who came from all parts of the world. The Council were fully alive to the importance of post-graduate studies, and had already arranged for advanced post-

graduate lectures on the higher branches of jurisprudence by Professor Bate, and on the various laws of our Indian dominions by one of the most competent men in the country.

Sir Albert Rollit supported the motion, which was carried.

The Solicitor's Predicament.

AN amusing episode occurred at the Shoreditch County Court recently. A case was being called on, when it was discovered that the defendant's solicitor was absent, and it was explained that he could not attend for some time.

The plaintiff's solicitor said he would not wait—his time was too precious.

The Judge: Of course, if you insist, I can only ask you to give formal evidence of the debt, and enter judgment for you. Call your client.

The name was called all over the Court and outside, but there was no answer.

The Judge (laughing heartily): What do you think of the situation now?

The Solicitor (confused): He was here a few minutes ago.

The Judge: Very likely, but do you think my time is precious? Now I suppose you feel much more kindly disposed towards your absent opponent? (Laughter.)

The Solicitor: I will wait for him now, if you like.

The Judge: You are pleased to give way now, because you know I ought to strike the case right out, as the plaintiff is not here, and your client should lose. You look as though you are hoist by your own petard. I will overlook it this time, though, and adjourn it to last in the list.

The Solicitor: I thank your Honour.

Review.

Note on the Principles of Bookkeeping and Modern Methods applied to Lawyers' Transactions.

By THOMAS JOHN MILLAR, M.A., LL.B., C.A.

Edinburgh, 1906: George Waterston & Sons.

This little handbook contains a discussion of considerable interest, to those who concern themselves with

Solicitors' Accounts, as to the suitability of Card and Loose-leaf Ledger systems to lawyers' offices. The general conclusion drawn is apparently distinctly in favour of these modern labour-saving appliances, and there is no doubt a good deal to be said for the arguments put forward by Mr. Millar. *Per contra*, however, we should like to point out that the abandonment of bound books must always be attended by some element of danger wherever the bookkeeping staff is not composed of properly trained bookkeepers; and inasmuch as the expression "properly trained" cannot in truth be applied to a very considerable number of the costing clerks employed by solicitors to keep their books, it seems to us desirable that the possible drawbacks of any application of the Slip system should be carefully considered before it is installed, in deference to the arguments put forward in its favour. Our own view is that in such a case it may well be found safer to adhere to the old-fashioned bound book for Ledger purposes, but that many economies can be effected by the employment of the Slip system for books of first entry, and in particular in the compilation of draft bills of costs and accounts of disbursements.

Meetings for the ensuing Week.

Tuesday—INSTITUTE OF CHARTERED ACCOUNTANTS.—Intermediate Examination; Students Societies' Grants Committee, at 3 p.m.

Wednesday—INSTITUTE OF CHARTERED ACCOUNTANTS.—Intermediate Examination.

LONDON CHARTERED ACCOUNTANT STUDENTS SOCIETY.—Lecture, "Local Authorities and their Finance," by Mr. T. H. Clare, at the Hall of the Institute, Moorgate Place; 6 p.m.

BRISTOL CHARTERED ACCOUNTANTS STUDENTS' SOCIETY.—Lecture, "Percentage Statements of Cost as applied to various Businesses," by Mr. W. H. Fox, F.C.A., at the Library of the Society, Albion Chambers, Bristol.

Thursday—LIVERPOOL CHARTERED ACCOUNTANTS STUDENTS' ASSOCIATION.—Lecture, "An Executor Trustee," by Mr. G. H. Ashworth, A.C.A., at the Library, 3 Lord Street; 6 p.m.

GLASGOW CHARTERED ACCOUNTANTS STUDENTS' SOCIETY.—Lecture, "Special Points arising in the Audit of the first Balance Sheet of a Limited Company formed to acquire a Going Business," by Mr. Matthew Mitchell, C.A.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, Nov. 9th, was 172, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 90; Deeds of Arrangement registered, 82. The respective numbers in the corresponding week of last year were: Bankruptcies, 92; Deeds of Arrangement, 97—total, 189; being a decrease of 17. The total number of commercial failures recorded during the 45 weeks of the present year is 7,229; the total number recorded in the corresponding 45 weeks of last year was 7,740, showing a decrease of 511.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, Nov. 9th, was 155. The number in the corresponding week of last year was 183, showing a decrease of 28. The total number filed during the 45 weeks of the present year is 6,598; the total number filed in the corresponding 45 weeks of last year was 7,273, showing a decrease of 675.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, Nov. 9th, amounted to £465,751, by way of addition to £1,527,608, previously issued by the same companies. The amount registered in the corresponding week of last year was £777,632, showing a decrease of £311,881. The total amount registered during the 45 weeks of the present year was £69,305,154 (in addition to the issues in previous years by the same companies), as compared with £65,878,893 for the corresponding 45 weeks in 1905, showing an increase of £3,426,261.

The Profession in Scotland.

Obituary.

Mr. James Haldane, C.A., whose portrait we give in this issue, one of the best known business men in Edinburgh, died on the 30th ult., at his residence in Grosvenor Crescent. He had been ill for a month. Born in 1831, Mr. Haldane belonged to an old Scottish family, the Haldanes of Gleneagles. The uncle of the Right Hon. R. B. Haldane, Secretary of State for War, he was the son of James Alexander Haldane, one of the

famous brothers who gave up a seafaring life for evangelistic preaching in the end of the eighteenth century. Mr. Haldane's father was in 1790 inducted as an independent pastor to the charge of the Tabernacle in Greenside Place, where he preached gratuitously for fifty years. The Haldanes trace their descent through twenty generations over a period of seven centuries of Scottish history. The late Mr. Haldane was descended from a branch of the family who migrated from the neighbourhood of the Tweed into Perthshire in the twelfth century, and there is still in possession of the family a charter of the lands of Frandie, part of the Gleneagles estate, granted to Roger de Haldane by King William the Lion. Educated at the High School and University of Edinburgh, Mr. Haldane was apprenticed to Mr. Ralph Erskine-Scott, at that time a well-known accountant, and afterwards he entered the office of his brother Mr. Robert Haldane, Writer to the Signet. Subsequently he returned to the accountant's profession, and in 1856 he became a member of the Society of Accountants in Edinburgh. He had thus attained his jubilee in the membership of a body which in 1895 did him the honour of electing him their President. In 1858 Mr. Haldane became a partner with Mr. Donald Lindsay and Mr. George Auldjo Jamieson, in the firm carried on under the well-known name of Lindsay, Jamieson & Haldane. Mr. Haldane's business connections were wide in their ramifications. He was a director of the Royal Bank of Scotland, a director of the Arniston Coal Company, a director of the New Zealand and Australian Land Company, and a director of the Scottish Trust and Loan Company of Ceylon. He was auditor of the Scottish Widows' Fund and of the North British and Mercantile Insurance Company, as well as many other companies, and at various times of several of the principal Scottish banks. He acted until recently in a similar capacity for the County Councils of the Lothians. Lord Bute's huge trusts were audited by him, and in 1878 he and Mr. Auldjo Jamieson were appointed two of the liquidators of the City of Glasgow Bank. Mr. Haldane was intimately connected with the work of the Representative Church Council of the Episcopal Church in Scotland, and took an active share in its deliberations. A trustee of the Council, he was also chairman of its Business Committee and a member of the Executive Committee. Outside purely business concerns his ripe experience made his services greatly in demand and he proved himself a willing helper. He was a manager of the Royal Infirmary for five years, and until recently he acted as chairman of the Committee of Contributors, and in other ways he took a sympathetic interest in the whole work of the institution. The movement for the erection of the Victoria Memorial School for the Sons of Scottish Sailors and Soldiers found in him a warm friend, and he acted



THE LATE JAMES HALDANE, Esq., C.A.

as chairman of a sub-committee of subscribers appointed to carry out the scheme. In politics he was a Unionist, and one of the originators of the Scottish Conservative Club. He was chairman of the club for ten or twelve years, and resigned that position only last year. He was a Deputy Lieutenant for the City of Edinburgh. Of Mr. Haldane's three sons, the eldest is Mr. Francis G. Haldane, W.S., of the firm of W. & F. Haldane, W.S.; Mr. Herbert W. Haldane, C.A., is a partner of the firm of Lindsay, Jamieson & Haldane; and the third son is Mr. Henry C. Haldane, a partner in the firm of Neish, Howell & Haldane, solicitors, London. His nephew, the brother of the Secretary of State for War, is Mr. W. S. Haldane, W.S., the Crown Agent in Scotland.

The death took place recently of Mr. Alfred A. Matthew, C.A., Edinburgh, at the age of thirty years. The deceased served his apprenticeship with Messrs. Bringloe & Maxtone Graham, C.A., Edinburgh, and was admitted to the Edinburgh Society of Accountants in 1898. He thereafter proceeded to New York, and remained there until two years ago, when he returned to this country on account of ill-health.

East of Scotland Bankruptcy Association.

Procedure in regard to the winding up of estates under the Bankruptcy Court and by private arrangement, as at present existing, was the subject of a lecture delivered by Mr. W. Kinniburgh Morton, S.S.C., at a meeting of the East of Scotland Bankruptcy Reform Association in the Goold Hall, St. Andrew Square, on the 1st inst. A comparison of the Scottish and English laws greatly favoured, he held, the methods adopted by the latter, Scottish law presenting many anomalies and allowing debtors greater licence than was the case in the south. In place of the old enactments, he suggested that one law, intelligible to all, should be framed. Privilege of class must yield to the rights of the general community. Every right available to a debtor should be available to a creditor. He advocated that imprisonment in some modified form should be imposed, as in that way a large amount of fraudulent trading would be brought to an end. The remedy lay in their own hands. If associations such as theirs combined to collect evidence of typical failures to meet legal obligations, of cases where dishonest debtors had flourished at the expense of creditors, a case would be made out which would compel action by the authorities.

With regard to the above report, which appeared in the

Scotsman, Mr. Kinniburgh Morton wrote as follows to the editor of the paper:—

"27 Rutland Square, Edinburgh,

November 2 1906.

"Sir,—Kindly allow me space to correct a wrong impression conveyed by your report in to-day's issue of my address to the Bankruptcy Reform Association, arising, no doubt, from the necessity for condensation. I am made to say that a comparison of Scottish and English laws greatly favoured the methods adopted by the latter. Incidentally, I did remark that in certain matters, notably the appointment of a receiver to protect the bankrupt estate till the trustee could take possession, and to inquire officially into the bankrupt's conduct, and also the power of a Judge to order imprisonment in cases of wilful failure to pay debts, English practice might well be adopted. I am far from thinking, however, that the English system, taken as a whole, is equal to our own.—I am, &c.

W. KINNIBURGH MORTON."

Faculty of Actuaries in Scotland.

Interesting Inaugural Address.

The session of the Faculty of Actuaries in Scotland was opened on the 5th inst. in the Hall, 24 George Street, Edinburgh. There was a large attendance.

Mr. Archibald Hewat, the President, delivered his inaugural address, the subject of which was "The Actuary in Scotland." He prefaced his address by a reference to the loss which the Faculty had sustained by the death of three of the Fellows—Mr. Hugh Blair, Mr. Philip R. D. MacLagan, and Mr. David Clunie Gregor. Mr. Hewat pointed out that by sheer force of circumstances the Scot is, and has long been, a citizen of the world, a traveller, a pioneer, a founder of empires, and a successful administrator in the State and in the Church, in the industries and in the finances of nations, as well as of the insurance companies of the world. These last, in their multifarious forms, their enormous resources, and the vastness of their influence for good, have taken, he said, an admittedly high place among the civilising agencies of the world. Also that it was a Scotsman who projected the Bank of England, which received its charter of incorporation in 1694, one year before the Bank of Scotland was instituted by a charter of incorporation from the Scots Parliament; and that it was John Coutts, Lord Provost of Edinburgh

(1742-44) who founded, in Edinburgh, the famous banking house of Coutts & Co., now in London. Proceeding, he said:—The Scot has long had the credit of being a frugal person, shrewd and thrifty, who husband resources for future eventualities, cautiously enterprising withal. It is to the prudent and thrifty Scot, who has realised that "the bed rock of prosperity in nations and municipalities is "the due consideration of finance," he said, the world owes much that is best and soundest in the development and management of insurance, banking, and railway companies, not to mention other joint-stock concerns, and commerce generally. Our Scottish-trained bankers, insurance, and railway officials, as well as our Scottish-trained merchants, are to be found in all the habitable parts of the earth. The Scot has largely developed in him the gift of finance. He has devoted much time and skill specially to institutions founded for the encouragement of thrift in its many forms, and to the successful development of schemes of provision for the future, for himself and his dependants—especially to friendly societies, widows' funds, and life assurance companies. Few know better than the Scot that the family, love of kith and kin, is the true foundation of prosperous national life. In referring to friendly societies, Mr. Hewat mentioned that the first attempt to collect data and to form tables by which to estimate sickness experience was made by the Highland Society of Scotland in 1824, and that there are now over 2,000 such societies in Scotland, with funds amounting to nearly £3,500,000. As an improvement upon and an upward step from the friendly society came the widows' funds, these being for the most part founded towards the close of the eighteenth century and early in the nineteenth. The first of these was that for the widows of the ministers of the Church and the professors in the Universities of Scotland, founded in Edinburgh so far back as 1744—a city minister, the Professor of Mathematics, the Lord Provost, and the City Accountant being the founders. This was followed by others. The total amount of the funds belonging to those of the ministers and professors, schoolmasters, lawyers, bankers, and merchants now amount to nearly £2,850,000—an increase of nearly £2,000,000 during the past half century. Mr. Hewat pointed out that these but paved the way for the better, more comprehensive, and more acceptable schemes of provisions now to be had by means of modern life assurance in its many attractive and adaptable forms. When the Faculty was constituted fifty years ago there were fifteen Scottish insurance offices transacting life business—eleven in Edinburgh, two in Glasgow, and two in Aberdeen. Three of those fifteen offices amalgamated with other three of them, thus reducing the number to twelve. To those, however, there fall to be added six new Scottish offices founded since 1855—the earliest of them dating from 1876—making now

eighteen Scottish offices: thirteen in Edinburgh, three in Glasgow, one in Aberdeen, and one in Perth, transacting life assurance, endowment, and annuity business. The paid-up capital of the Scottish offices fifty years ago slightly exceeded £750,000, while now it somewhat exceeds £5,600,000. The life assurance and annuity funds were then a little more than £8,900,000, while now they only slightly fall short of £93,000,000. The premium income was then rather less than £1,300,000, while now it is not far short of £6,600,000. The interest income was then under £360,000, while now it exceeds £3,550,000. A truly marvellous growth during half a century—and this refers only to offices having their headquarters in Scotland, the population of which is less than five-sevenths of that of London with its suburbs. The eighteen Scottish offices are now paying in claims under life assurance and endowment policies nearly £5,500,000 per annum, and considerably over £750,000 per annum to annuitants. They also possess, among them, "other funds" belonging to the life department, amounting to upwards of £500,000 beyond the £93,000,000 already referred to. Friendly societies, widows' funds, and life assurance offices in Scotland, with funds thus reaching to the large sum of, say, £100,000,000, not only afford sufficient justification for the existence of the Faculty of Actuaries, but, were there nothing else, they also provide ample employment and a very honourable sphere of usefulness to the Fellows thereof. It must not be supposed that it was the Faculty which called the actuary into existence; it was rather the actuary who created the Faculty. If it was not the actuary who, in some primitive form, first called friendly societies, widows' funds, and life assurance offices into existence, it is undoubtedly to him that they owe, for the most part, their development, their continued existence, and their promise of lasting stability. Mr. Hewat reminded his audience that there was one great Scotsman to whom the actuarial profession was much indebted—John Napier, Baron of Merchiston, the inventor of logarithms, who was born in Merchiston Castle fifty-three years before their Scottish King James VI. ascended the English Throne as James I. of England, and who died in that same castle in the year 1617, leaving large estate. Mr. Hewat remarked that the Scottish actuary has been evolved from many useful and dignified professions. In early days the accountant, the lawyer, the banker, the insurance official, the schoolmaster, and the professional mathematician performed, among them, practically all that was then expected of or was possible to an actuary. The work and the actuary have grown up and developed together, the one acting and reacting on the other. A too common mistake has been made, for which Mr. Hewat feared the actuary himself is somewhat to blame, in narrowing or limiting his sphere. To enlarge the view and

deepen the interest, he said, one has only to be present at one or more of the great international congresses of actuaries, which, meeting triennially, have already had great and increasing gatherings and discussions in Brussels, London, Paris, New York, and Berlin; the next having been appointed to be held in Vienna, and the following one probably in Amsterdam. He had the honour, with six of the Fellows, in representing the Faculty at the Congress which held its meetings in Berlin in the Reichstag Building, which was kindly placed at their disposal by the President of the Reichstag during the week from 10th to 15th September last—the German Government giving a substantial grant in money towards the expenses of the Congress. In Scotland, Mr. Hewat said, the actuary of the life offices has generally held the official position of manager of his company, or, when that has not been so, he has always been in close relationship with the management. When he combines in himself the duties at once of an executive and of an advisory officer, as is so frequently the case in Scotland, the most gratifying results have ensued. In America, where these two positions had, unfortunately been divorced, and where the actuary has been too frequently relegated to a back room, as if he were a mere calculating machine or automaton, the business of life assurance has suffered. In the recent exposures of American scandalous mismanagement no blame has been attributed to the actuaries. Reference was also made to the actuary being frequently called upon, in a professional capacity, to assist in legal and other cases, and to appear as an expert witness in the Supreme Courts and in arbitrations, and to advise in financial matters in which municipal and other corporations are interested. It might be better, Mr. Hewat said, for such corporations if actuaries were more frequently called in, and at an earlier stage than sometimes happens. An important and increasing part of the actuary's work, it was pointed out, is the advising upon pension funds and superannuation schemes; and a note of warning was sounded as to the danger of allowing such to be guided by unskilled hands. The aim of the actuary, it was contended, is the making for permanent stability in all provident funds. Mr. Hewat, in speaking of the large share this Faculty and its members have had in shaping and advising legislation during the past half-century, referred incidentally to the evidence which he had submitted on behalf of the Faculty to a Select Committee of the House of Lords in July last. He

also presented a somewhat bulky classified catalogue which he had prepared of the publications of the Fellows of the Faculty during its fifty years' existence. He also submitted the following interesting information:—Seventeen of the members hold among them twenty-two University degrees (LL.D., D.Sc., B.Sc., M.A., and B.A.), and thirty are Chartered Accountants (C.A.); two are directors, twenty-eight are managers, twenty-two are secretaries, and fifty-two are actuaries of their companies; some of those last holding that post conjointly with that of manager or of secretary. One hundred and fifteen are resident in Scotland, forty-six in England, one in Ireland, nine in Australia, one in New Zealand, eight in the United States of America, two in Canada, four in South Africa, one in India, and one in China. Two Fellows who entered when the Faculty was constituted in 1856 still survive. Mr. Hewat mentioned that the Faculty is in fraternal relations with actuaries all the world over, and referred to the cordial terms on which the Faculty stood with the Institute of Actuaries in London, of which thirty-six Fellows of the Faculty are also Fellows, while seven Fellows of the Institute are also Fellows of the Faculty. In closing, Mr. Hewat pointed to the motto of the Faculty—*Ad finem fidelis*—as indicating the members' sense of the great responsibilities which lie upon them as actuaries, and on whom so largely depends the stability of friendly societies, widows' funds, and life assurance offices.

On the motion of Mr. N. B. Gunn, one of the Vice-Presidents, a cordial vote of thanks was passed to Mr. Hewat for his address.

CASSELL'S MAGAZINE for November 1906 contains:—"John Charlton and his work," by John de Walton, illustrated by the artist's pictures; "Bonavia's Black Sheep," a complete story by Tom Gallon; "M.P.'s at Play," by Harry Furniss; "Master Loggatt's Waterloo," a complete story by Orme Agnus; "The Story of the Ballet," by Henry George Hibbert; "The Way to Fairyland," by Myra Hamilton; "The Romance of the Orchid," by John Trist; "The Count's Chauffeur: No. 6.—The Gentleman from London," by William Le Queux, illustrated by Cyrus Cuneo; "The Haunted Studio," a complete story by J. S. Fletcher; "The Diamond Ship," serial story (conclusion), by Max Pemberton; "Clues to Success in Business," the opinions of Sir Hiram Maxim, Mr. Andrew Carnegie, Sir Thomas Lipton, Mr. William Whiteley, Mr. J. Storrs Fry, Mr. Joseph Lyons, Mr. A. W. Gamage; "The Castle of Silence," a poem by A. St. John Adcock; "Tales by the Way"; &c. &c.

The Profession in Ireland.

Institute of Chartered Accountants.

THE quarterly meeting of the Council was held at the offices of the Institute, 4 College Green, Dublin, on Wednesday the 7th inst., Mr. Robert Stokes (President) in the chair. There were also present:—Messrs. E. M'Carthy (Cork), M. Crowley, J. M. Kean, J. Harold Pim, J. H. Woodworth, N. G. Peterson (Dublin), M. Shaw, W. Fitzsimons, R. Walsh, J. M'Cullough, J. E. Magill (Belfast), and C. G. Mitchell (Assistant Secretary). The applications from candidates for examinations were considered, and it was decided to hold same at Belfast on the 12th, 13th, and 14th of December. Exemption certificate from the Preliminary Examination was granted to S. B. Finlay (Belfast). The usual quarterly business having been transacted, the meeting terminated.

The mammoth collection of Greeting Cards which is annually put out by Messrs. Raphael Tuck & Sons is not alone a formidable problem to deal with for selection and purchase, but also presents no mean task to merely examine, and it is rapidly approaching a magnitude which will forbid any attempt at description within ordinary limits of space. For the very abundance of design will render any notice bewildering, and defeat its avowed purpose. This year over 2,000 sets of Christmas and New Year cards, comprising no less than 4,000 distinct designs, is the net result in this field of their activity. Certainly an unprecedented achievement this, in the history of the trade, and no less true is it of their high quality than of the immense quantity. We may say that the collection possesses the supreme advantage of meeting all tastes, and of exciting the admiration and increasing the pleasure of all recipients from its stores. Again does the exquisite "Oilette" series—those veritable miniature paintings—lead in their marvellous new collection of Post Cards, to which over a thousand new sets in every range of subject have been added.

Bank Rate of Discount.

April 5th 1906	..	..	..	..	..	..	3½%
May 4th	..	..	..	..	..	..	4%
June 21st	..	..	..	..	..	..	3½%
Sept. 13th	..	..	..	..	..	..	4%
Oct. 11th	..	..	..	..	..	..	5%
Oct. 19th	..	..	..	..	..	..	6%

Chartered Accountants' Prayer Union.

THE inaugural meeting of the Union was held at Salisbury House (Hall 201) on Tuesday, November 13th, at 6 o'clock, when all ranks of the profession were well represented.

Mr. Arthur H. Caesar, F.C.A., took the chair, and was subsequently elected President.

An address was delivered by the Right Rev. Bishop Taylor Smith (Chaplain-General of the Forces).

The Union will join the Federation of London Prayer Unions. The Hon. Secretary is Mr. Herbert A. Cox, 33 St. Swithin's Lane, E.C.

MIXED METAPHORS.—Sir Robert Purvis, fortuitously knighted in the last weeks of the existence of a Government he had faithfully served—more especially at 9 o'clock in the evening, when it was desirable to postpone approach to public business—takes the cake in respect of the sustained brilliancy of his metaphor. Addressing his old constituents at Peterborough in defence of an Act of Parliament under whose operation some of them had gone to prison for a week, he said, "That, gentlemen, is the marrow of the Education " Act, and it will not be taken out by Dr. Clifford or anybody else. It is founded on a granite foundation, and it "speaks in a voice not to be drowned by sectarian clamour." We must go to Germany to beat that. In an address to the present Emperor's father a Rheinlander Mayor said, "No " Austria, no Prussia, only one Germany. Such were the " words the mouth of your Imperial Majesty has always had " in its eye."—From "Bulls in the (Westminster) China Shop," in *The Cornhill Magazine* for November.

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The Accountant

THE RECOGNISED WEEKLY ORGAN OF CHARTERED ACCOUNTANTS

AND

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NOTICE IS HEREBY GIVEN that the Tenth Ordinary General Meeting of THE CAPE ELECTRIC TRAMWAYS, Lim., will be held at No. 1 London Wall Buildings, London Wall, in the City of London, on Thursday, the 6th day of December 1906, at 12 o'clock noon, to receive and consider the Report of the Directors and the Statement of Accounts to be then presented; to elect Directors and Auditors, and to fix their remuneration; and to transact the other ordinary general business of the Company.

The Transfer Books of the Company will be closed from 30th November to the 6th December 1906, both days inclusive.

Dated this 14th November 1906.

By Order,

S. W. JAMESON,

Secretary.

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TABLE "A."

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Leading Articles.

Outside Accountants.

DURING the past few weeks, doubtless partly in consequence of our notes on the need of something being done to check the unprofessional practices of unqualified accountants, we have received quite a little collection of circulars and cuttings drawing attention to the methods pursued by this fraternity. A

London correspondent forwards us a copy of the advertisement in a financial weekly in which a firm of bookmakers carrying on business in Holland (with a view to avoiding the English law) announce themselves as "turf accountants." This advertisement contains an extract from a sporting contemporary describing them as a "straightforward firm of accountants," and our correspondent, while expressing disgust that, after having spent years of study to qualify for the accountancy profession he should thus find himself bracketed with betting men, inquires whether, in the event of registration for the profession becoming an accomplished fact, turf accountants would appear upon an equal footing with Chartered or Incorporated Accountants. We do not know whether we are seriously expected to express an opinion upon the matter, but it seems to us that any Bill that sought, or was likely to produce, such an effect would stand no chance whatever of becoming law; but, however that may be, the incident affords a strong argument in favour of legislation which will enable the public to clearly discriminate between competent accountants, bookmakers, money-lenders, and the like.

Another correspondent forwards us three circulars from the proprietor of a so-called trade protection office, which, while disclaiming all pretensions to being regarded as a philanthropic institution, express a desire to give commercial information, collect over-due accounts, and attend meetings of creditors for business houses, free of charge. As our correspondent does not inform us of the identity of the author of these circulars, we cannot express (even if we wished to do so) an opinion as to his ability to carry out his charitable intentions. We may

point out, however, that the Deeds of Arrangement Act, 1887, has been very greatly discredited by the methods of certain firms of outside accountants who have succeeded in securing trusteeships under such deeds, and have afterwards shown their claim to the title "accountant" to consist chiefly in an ability to refrain from accounting for whatever moneys came into their possession.

Another circular, issued by a man who describes himself as an Incorporated Accountant, but is not a member of the Society of Accountants and Auditors, is apparently designed to be sent to the impecunious. The writer states that he is confident that he is able to extricate an addressee, without damage to his reputation or business, out of any whirlpool of financial difficulty; and that, being fortified with a first-class intellectual training and an experience extending over twenty years, he guarantees to carry out what he professes. Like the gentleman previously referred to, he professes to give advice "genuinely free," which is no doubt expedient if he wishes to avoid a prosecution under the Solicitors' Act. It is difficult, however, to altogether reconcile this statement with the fact that he "certainly expects to earn a fair remuneration," although "without hoping to thrive out of the misery and misfortunes of other people." It would be most interesting to know how this apparently conflicting programme is to be carried into effect. We entirely agree with him that insolvency is "tedious" to the insolvent—or, at all events, is tedious until it becomes exciting—but the experience of most insolvents who, in a misguided moment, call to their aid so-called accountants who are under the control of no central organisation is hardly such as to warrant the conclusion that the trader

struggling with financial difficulties would be well-advised in following their example. We have no hesitation in saying that no reputable solicitor would give them such advice.

Another instance to which our attention has been drawn is that of a person who failed in 1900 with liabilities amounting to close upon £2,000, in whose estate a first and final dividend of 1s. 9½d. in the £ was paid. On his application to the County Court Judge for his discharge, the Official Receiver reported that in 1884 the debtor knew that he was insolvent, that in 1885 he took a partner, and terminated the partnership in 1887; that in 1893 he took another partner, who agreed to pay him £650 for a half-share, and actually paid £200 on account, who in August of the same year dissolved the partnership, taking out £150 as his interest in the concern. In December 1894 another paid £400 for a half-share of the business, the partnership being dissolved in 1897, when he received £100 out. In February 1897 a further £400 was secured from another man for a third share of the business, the partnership being terminated in 1899, when the bankrupt paid him £112. In March 1900 another partner was found, who paid £300 for a third share of the business, but a week after receiving this money the debtor was unable to meet his engagements, and the new partner was only able to secure a return of £150. At the date of his bankruptcy it appears that the debtor owed no less than £976 to his mother-in-law, who, according to the Official Receiver, had been kept quiet by being paid from time to time some money as interest. The only comment necessary upon this case seems to be that of the Judge, who, in altogether refusing the bankrupt his discharge, stated that conduct such

as this could not be too severely reprimanded. For twenty years the bankrupt had carried on business in a way that no commercial community could consider right or proper. Apparently, however, such a man is, under the existing law, thought to be quite competent to carry on business as an accountant.

A humorous touch is given to these somewhat sordid details by the comments which appeared in last month's issue of the organ of the Corporate Accountants on our Weekly Note of the 13th ult., in which attention was drawn to a cutting from a provincial contemporary recording at some length a dinner given by the local branch of one of the rapidly increasing associations of accountants which have recently been formed to compete with Chartered and Incorporated Accountants. Our contemporary is pleased to regard the expression "rapidly increasing" as a complimentary one applied to the position of the Corporation of Accountants, Lim. We can assure it, however, that the words meant nothing of the kind. For all we know to the contrary, the membership of the Corporation of Accountants, Lim., may be increasing, but that is a matter which, it seems to us, concerns none but those who get the benefit of the members' subscriptions: it was the *number* of individual societies that we referred to as increasing, and we referred to the increase as being undesirable in the interests of the public. Our contemporary tells us that the public, which we in our ignorance had described as being "never very observant," is now realising that members of other bodies are just as qualified as the Chartered Accountants for the practice of the profession, and are able to estimate the "admitted quackery" of the designation

"Chartered Accountant" at the proper value. He adds that the description "never very observant" is more applicable to the Chartered Accountants, who, with a strange infatuation, believe that they can go on duping the public for all time. We do not know whether "infatuation" is quite the right word, but it certainly does seem to us passing strange that those gentlemen, who have to be interdicted by a Court of Law from employing the designation "C.A.," should now be so vehement in condemning the "quackery" and "duplicity" of Chartered Accountants. One would have thought that with these high-sounding views this body would have been able to invent some designation which would be less likely to cause the "never very observant" public to confuse them with those practitioners whose conduct—or is it misconduct?—they so shudderingly deplore.

How to Read a Balance Sheet.

ESPECIAL interest attaches to the paper entitled "How to Read a Balance Sheet of a Commercial Concern," which was read by Mr. F. W. PIXLEY, F.C.A., at a recent meeting of the Glasgow Chartered Accountants Students' Society, and duly reported in our issue of the 27th ult. The subject is one that was touched upon a short time since by Mr. W. R. HAMILTON, F.C.A., in a paper on the Interpretation of Accounts, but is of such immense importance that it still provides ample scope for further treatment. Mr. PIXLEY's attitude towards the matter may be regarded as strictly orthodox, if somewhat old-fashioned.

At an early stage the lecturer expresses the view that it is doubtful whether the time will ever arrive when the commercial and investing

public will be able to understand for themselves a Balance Sheet properly drawn up and duly certified by the auditors; and although, of course, it is always difficult to foretell the future, this seems extremely probable. At all events, at the present time it must be admitted that there are many shrewd business men, and *a fortiori* many careful investors, who are unable, without assistance, to extract from a Balance Sheet all the information that it is capable of providing. On the other hand, it should be added that the most gifted accountant would probably find himself somewhat at a loss if he had to depend entirely on published Balance Sheets for the formation of an accurate opinion. Partly because the Balance Sheet is necessarily a summarised document; partly because it only enables one to see (so to speak) one aspect of the business—the other being afforded by the Trading and Profit and Loss Accounts, which are generally suppressed—and partly because, in the case of prosperous undertakings at least, it is tacitly admitted that owing to the existence of Secret Reserves the Balance Sheet does not tell the whole truth with regard to the financial position.

We are not at all surprised that the lecturer emphasises the "orthodox" view that the Balance Sheet is not a mere statement of assets and liabilities; but when he goes on to criticise as "mischievous" the practice observed in many quarters of heading the two sides of the Balance Sheet "Assets" and "Liabilities" respectively, we think that he is going too far. In all cases Ledger balances which summarise business transactions must be included either in the Balance Sheet or in one of the accounts which, taken together, may be regarded collectively as the Revenue Account. Credit balances representing receipts by the business

may be regarded *primâ facie* as liabilities, but as properly transferable to Revenue in the event of their giving rise to no liability or financial responsibility on the part of the company. Similarly, debit balances representing expenditure upon the part of the company may be regarded as *primâ facie* losses, and therefore transferable to Revenue Account, but, wherever adequate reason can be shown for not so treating them, they must in the alternative be treated as Balance Sheet items. It thus follows that the items appearing on the left-hand side of a properly constructed Balance Sheet (however that side may be headed) are those items which, viewed broadly, represent moneys or benefits received by the company for which it still has to account to someone—i.e., liabilities of some sort; while the items upon the right-hand side of the Balance Sheet (however headed) represent items which it is thought unnecessary to charge against profits, because for the time being at least they may be regarded as possessing some real (although not necessarily realisable) value, and are therefore assets. If they cannot answer to this definition they are clearly improperly placed in the Balance Sheet, and should have been written off against Revenue. The only exception, it seems to us, is the debit balance on a Profit and Loss or Appropriation Account, which is admittedly a Revenue item, but which has to be brought into the Balance Sheet because for the time being there is no revenue against which to write it. Such an item cannot, of course, be called an asset in the case of a limited company, but, so long as its nature is clearly described upon the face of the Balance Sheet, we must confess that we see nothing mischievous in heading the right-hand side of the Balance Sheet "Assets," following

the prescribed form of Balance Sheet in the old Table A. On the contrary, we think that the employment of the heading "Assets" might frequently guard against debit balances being (as is now but too often the case) brought into the Balance Sheet instead of being written-off against Revenue forthwith.

It may, of course, be argued that the form of so-called Balance Sheet frequently issued by mining and other companies which have not yet commenced active operations, which includes not merely Capital but also Revenue items, is a clear refutation of our assertion that only debit balances in the nature of assets should appear upon the right-hand side of a Balance Sheet. We think, however, that, under the circumstances named, the term "Balance Sheet" is a misnomer. The document in question is neither more nor less than a Trial Balance, and, in our opinion, should be so described. We can see no advantage, and many objections, to admitting that items which are not assets may be properly placed upon the right-hand side of any Balance Sheet; and the only exception that we would make to this rule is that which one is of necessity compelled to make in the case of an adverse balance on Profit and Loss Account.

As to the definition of "Assets" from the "Encyclopædia of Accounting," we must confess that we consider it unsatisfactory. It would almost appear to assume that all assets must be realisable, which, although true in a sense, has, unless very carefully used, the effect of undesirably limiting the definition. The root idea of the word is sufficiency—sufficiency to meet all liabilities and claims, and thus represents that which is (so to speak) held against these liabilities and claims, without necessarily

asserting that if realised at once they will be found sufficient for that purpose. Some might even prove practically valueless if the existing business were abandoned, but it does not follow from this that the company as a going concern must be regarded as not possessing sufficient assets to meet its debts; indeed, it is probable that there are few companies in existence that could meet all their obligations if compelled to suddenly realise.

We think the distinction between Fixed Capital and Working Capital is not quite consistent. Having first stated that Fixed Capital is represented by such portion of the Share Capital as has been expended in the acquisition of land, buildings, plant and machinery, fittings and furniture, the lecturer proceeds to say that unappropriated profits, so long as they remain in the business, form part of the Working Capital as distinct from the Fixed Capital. Clearly, profits which have been reserved for the purpose of adding to the general equipment—*i.e.*, of being spent in the acquisition of fixed assets—cannot be regarded as Working Capital, or else the expression must be regarded as having no really distinctive meaning.

When the lecturer comes to the more practical part of his paper his observations will be found to contain much that is of value, particularly those that deal with the various groups into which the assets of most Balance Sheets are divisible. Having, however, started by drawing attention to the fact that a Balance Sheet is something quite apart from a statement of assets and liabilities, we must confess that we are not surprised to find him asserting that, when creditors are fully secured, the amount due to them ought not to be set out

on the *Dr.* side of the Balance Sheet at all, but deducted from the value set out on the *Cr.* side of the Balance Sheet as being the value of the property pledged to meet this indebtedness. We are not aware of any case in which this plan is followed in practice, and for our own part we regard it as being open to objection; but, of course, we entirely agree that the Balance Sheet should show clearly the existence of any charges that there may be upon assets other than those ordinarily created in the course of business, and presumably about to be discharged in the ordinary way. Bearing in mind that the whole basis of a Balance Sheet is the basis of a going concern, we think that method of stating the facts most suitable; but in the case of an insolvent business it is in many respects unsuitable.

Mr. PIXLEY's interesting and highly suggestive paper concludes with some references to Secret Reserves, upon which subject we are pleased to observe that his views substantially coincide with those already expressed in these columns; but the difficulty with regard to the matter, and the point upon which it seems to us considerable further discussion might with advantage be raised, is as to the enormity of the responsibilities thrown upon the auditor, who is now presumably to be charged with the double duty of keeping silence as to the state and condition of Secret Reserves, but only until the exact moment when the position becomes unsatisfactory, when he is required to fulfil his statutory duty of reporting to the shareholders. But for Secret Reserves an auditor would always feel that in cases of doubt he had done his duty in expressing that doubt to the shareholders and leaving them to follow the matter up if they thought fit, but in view of the decision in the *Birmingham Small Arms*

case it would now appear that he is for the future to be expected to worry the whole thing out for himself unaided, and to stand the cross-fire of directors and shareholders in the event of his ever making the mistake of being either unduly cautious or too sanguine. This is a position which can doubtless be viewed with equanimity by those whose audit practice consists of undertakings of an absolutely first-class character, but it is one that presents very serious and considerable difficulties to the practitioner less fortunately situated.

Commercial Statistics.

A BILL is now before Parliament, and will probably be passed into law during the current session, providing that in the year 1908, and subsequently at such intervals as the Board of Trade may from time to time determine, a Census of Production shall be taken under the superintendence of the Board.

Occupiers of factories or workshops; the owner, agent, or manager of every mine and quarry; builders (including repairers and decorators), and all who by way of trade or business execute works of construction or repair, of railways, tramways, harbours, docks, canals, sewers, roads, embankments, reservoirs, or wells, or of laying, altering, or repairing gas or water pipes, or telegraphic, telephonic, or electric lines; those who by way of trade or business give out work to be done elsewhere than on their own premises, and those carrying on other trades or businesses which may be prescribed by the Board of Trade, will be required to furnish particulars, on the prescribed forms, in respect of the year preceding the date of the Census, of the nature of the

trade or business, particulars relating to the output, the number of days on which the work was carried on, the number of persons employed, and the power used or generated, and relating to such other matters of a like nature as may be found to be necessary for the purpose of enabling the quantity and value of production to be ascertained.

The Bill contains provisions which, in its ultimately amended form, will doubtless be found to be adequate to safeguard the legitimate secrets of business houses; but it will be seen that it aims at the taking of a Census of Production in the United Kingdom, and thus rendering available information which, under our existing system, is unavailable at present.

What may be the precise objects of this measure it is, of course, impossible to say. That the somewhat considerable expense involved should be faced at the present time—when the need for economy of public expenditure is so apparent—for purely statistical or scientific purposes, seems doubtful in the extreme. That it should be employed to provide “new facts” to be used at a later date on the discussion of the fiscal question seems by no means improbable, but it may well be questioned whether any very conclusive deductions can be drawn from the figures relating to a single year, no matter how complete in themselves. If they are to be employed for political or *quasi*-political purposes, however, it is obviously desirable that the preparation of these statistics should be undertaken not by the Board of Trade, whose past record upon such matters is particularly unenviable, but by skilled and impartial statisticians acting under the instructions of a strictly non-party body, such, for instance, as

a Royal Commission. We all know how the Board of Trade can with the greatest facility produce statistics conclusively proving (or supposed to conclusively prove) any argument that is officially desired to put forward ; and we have, therefore, no hesitation in saying that if the same policy is to be pursued with regard to this Census of Production, the results will be equally valueless and equally misleading. We hope therefore that, before the Census is taken, some definite announcement will be made as to who will be responsible for the arrangement of the figures when collected. Then, and then only, does it seem to us that there will be any inducement for business men to take the necessary trouble to provide returns sufficiently accurate to prove of value. The Bill, of course, provides all sorts of pains and penalties for false returns ; but we all know that it is the easiest thing in the world to make such a return so as to be entirely misleading, without incurring any such penalty as Parliament is likely to sanction for offences under the Act.

It is but fair to add that the Bill takes power for the Board of Trade to appoint one or more advisory committees, and that thus means might be provided of giving the public reasonable security that the ultimate reports on the Census would be skilfully framed and strictly impartial. But at the present time the clause gives power for the appointment of such committees, "including persons conversant with "the conditions of trades and industries, for "the purpose of advising them when considering the preparation of the forms and instructions necessary for the taking of the Census "and the making of any rules under this Act." Thus the powers of such committees would apparently end when the Census had been taken, whereas the committee that we are

contending for would begin its functions at that point. We trust that it is not yet too late for this matter to receive the attention that its importance demands.

Weekly Notes.

Form of Municipal Accounts.

It is difficult to reply in general terms to such a letter as that which appeared in our issue of the 10th inst. over the initials "X. X.," because one never knows whether the whole of the facts are stated, or whether they are quite fairly stated, in the case cited ; but dealing with the points *seriatim*, and in quite general terms, we may say : (1) If the full facts are to be stated, the reduced rates and lessened taxes (rates?) should be credited under the proper headings and charged as employees' wages. (2) When electric light, or any other form of supply or service, is provided free, or on special terms, to employees of departments other than the producing department, the same course should be pursued, if the accounts of the several departments are to show the true position of affairs. When services are supplied to employees of the same department the point is naturally of less importance. (3) This raises no new point, but it may be added in general terms that wherever there is a free service not recorded in books of account at all, there is always a considerable risk that it may be continued after the employee has left the service of the Council.

The Organisation of Municipal Accounts.

A correspondent signing himself "Accountant" writes to a contemporary inquiring whether it is desirable that an Urban District Council should combine the two offices of Accountant and Rate Collector, appointing one person to fill the position. Our contemporary solemnly points out that while there is no legal objection to this course there are some practical objections, the principal one being that to do so intringes the important rule that it is inadvisable that an officer who collects and receives money should have access to, and be responsible for, the accounts of the Council. With this rule we are, of course, in cordial agreement, but we may point out that while the combination of the posts of Accountant and Rate Collector is as unusual as it is

undesirable, the equally impolitic combination of Treasurer and Accountant is becoming increasingly common. We have no hesitation in saying that in any concern sufficiently large to render the employment of a reasonable system of internal check practicable, it is most undesirable that those upon whom the duty of recording or supervising the entries in books of account devolves should under any circumstances whatever be allowed to handle moneys. A reasonable compliance with self-evident rules of this description is indeed far more important as a means of detecting fraud than the most elaborate system of audit that it would be practicable to devise.

Income Tax.— In reply to our correspondent **Interest on Bank "Burgh,"** whose letter under the above **Overdrafts.** heading we reproduced in our issue of the 10th inst., we have no hesitation in saying that interest on a fluctuating bank overdraft is a proper deduction from profits for income-tax purposes, and would be allowed as such by any reasonable Surveyor.

Bookkeeping for Electric Power Companies. With regard to the question asked by our correspondent "A. C." in our issue of the 10th inst., who was desirous of obtaining an accounting book which gives a good idea of all books, forms, and accounts usually kept by large electric power companies, we may point out that such companies are, in the nature of things, not sufficiently numerous to render the production of a book of this description practicable, nor is the want likely to be felt, inasmuch as such companies can always afford to retain the best professional advice available. A good deal of useful information upon the subject may, however, be gathered from "Electric Lighting Accounts," Vol. XXIX. of the "ACCOUNTANTS' LIBRARY" series.

Municipal Electric Lighting Accounts. It is quite evident that the local authorities are not going to have the criticism of Electricity Accounts entirely on their own side, for the managing director of the London Electric Supply Corporation, Lim., has addressed a letter to the Local Government Board in connection with the Electricity Accounts of the Boroughs of Bermondsey and Southwark which is very interesting and instructive. It will, perhaps, be remembered that in June last Mr. Bain called attention

to the accounts of the electric lighting department of the Borough of Bermondsey for the year ended 31st March 1905, and pointed out what he considered to be several errors therein. The accounts with which the present letter is reported to deal are those of the same borough for the year ended 31st March last. The matter is said to be one of great importance to the Electrical Supply Corporation, Lim., which, in addition to being a substantial ratepayer, is said to be a statutory authority for the supply of electric energy in the borough, and is thus not only being competed with in an unfair manner, but is also called upon to contribute to the loss which is being incurred yearly by the carrying on of the undertaking by the Borough Council. Attention is also drawn to Clause 8 of the Bermondsey Electric Lighting Order, 1902, the intention of which was that the undertaking thereby authorised should not be carried on with the aid of the rates, and it is pointed out how this clause is alleged to have been evaded. The following figures are given in support of Mr. Bain's contention, the whole of the loss having, of course, to be borne by the ratepayers of the borough:—

Expenses Undercharged—	
Dust Destructor	£3,562
Rates and Taxes	627
Law and Parliamentary Charges	559
Depreciation, Reserve, or Sinking Fund	2,114
	<u>£6,862</u>

Add—	
Revenue Over-credited for Supply to Public Lamps	1,130
Total	<u>£7,992</u>

The Expenses would thus be increased to	£15,449	0	0
And the Revenue reduced to	15,363	0	0
Showing a Loss of	86	0	0
To which has to be added Interest on Mortgage Debt and Loans (per Net Revenue Account)	4,246	13	11
Thus showing a Total Loss on the Year's Workings (instead of a profit, as shown by the accounts, of £3,660) of	£4,332	13	11

It is said that a similar state of affairs exists in connection with the Electricity Accounts of the Borough of Southwark, and Mr. Bain's suggested alterations are as follow:—

Expenses Undercharged—	
Rates and Taxes	£467
Parliamentary Charges	559
Depreciation or Reserve	1,478
	<u>£2,504</u>

Add—	
Revenue Over-credited for Supply to Public Lamps	960
Total	<u>£3,464</u>

The Expenses would thus be increased to	£11,771
And the Income decreased to	12,386
Showing a Balance of	<u>£615</u>

In this latter connection, as the interest on and repayment of loans for the year amounted to £4,659, it is maintained that there is a loss on the year's working of £4,044, instead of a profit, as shown by the published accounts, of £379, the whole of which loss will have to be borne by the ratepayers. It will be interesting beyond measure to hear the officers of the boroughs concerned in their defence.

The Chartered Accountant Students Society of London.

We are asked to call attention to the seventh annual dinner of the London Chartered Accountant Students Society, which is to be held at the Hotel Cecil, on Thursday, 6th prox. Mr. Ernest Cooper, F.C.A., a Vice-President, will preside. Sir Edgar Speyer, Bart., has promised to propose the toast of "The Society," and, besides many leading members of the profession, the following gentlemen will be present:—Sir F. G. Banbury, Bart., M.P.; Sir J. Denison-Pender K.C.M.G.; Sir J. Skewes Cox. An excellent musical programme will be provided. All members of the Institute, even if not members of the Society, and their friends, are cordially invited to take tickets. Those desiring tickets are requested to apply to the Secretary, 1A Frederick's Place, Old Jewry, E.C., without delay, so as to facilitate the seating arrangements.

Consols and the Post Office Savings Bank.

In reply to the question put by Sir Howard Vincent in the House of Commons last week, with regard to the loss to investors in Consols through the Post Office Savings Bank of £29 in every £100, and to the fact that there was nothing in the books issued to depositors to show persons unaccustomed to Stock Exchange transactions that Government Stock was subject in this country to such fluctuation and depreciation, the Chancellor of the Exchequer is reported to have said that a warning is contained in the latest issue of the deposit book, as well as in the leaflet issued to depositors on the subject of Government Stock, to the effect that the price of Stock is subject to fluctuation, and that the Postmaster-General is not liable for any loss sustained through a fall in price between the dates of purchase and sale. He could not regard the absence of the warning in the past as an implied guarantee against such loss, and he thought the depositors who had invested in Consols were as well aware of the nature of the investment as other small investors. He did not see the need for a Committee, and he did not know of the existence, either in France or Germany, of

any system by which investors could be secured against a fall in the price of Government Stocks. Sir Howard Vincent also asked the Chancellor of the Exchequer what was the total value of Consols purchased through the Post Office Savings Bank for 1905-6, and what was the total value of those securities on November 1st 1906, and, having regard to the depreciation in the Stock, whether he saw any way of recouping the thrifty working classes. The reply was to the effect that the nominal amount of Consols purchased in the year referred to was £743,884, the amount of the purchase-money being £797,724. If the same amount of Stock had been sold on the 31st October 1906 it would have realised £640,205. He was, however, unable to say how much of the Stock purchased for depositors in 1905-6 was still held by them on the last-mentioned date, and did not think he would be justified in giving investors preferential treatment in the way suggested at the expense of the general taxpayer.

A New Privy Councillor.

The Hon. Mr. Justice Kekewich, who has been made a Privy Councillor, was born in 1832, became a barrister of Lincoln's Inn in 1858, was made a Q.C. in 1877, and has been a Judge of the Chancery Division of the High Court of Justice since 1886. *The Law Times* remarks that it is unusual and without precedent that a *puisne* Judge of the High Court should be made a member of the Privy Council while still a member of the Bench. The new Privy Councillor is nevertheless to be congratulated on what must be looked upon as a recognition of twenty years' honourable service.

The Effect of Notice of an Act Union of London and Smith's Bank, of Bankruptcy.

The case of *Ponsford, Baker & Co. v. Lim.*, should not be overlooked by those whose practice embraces bankruptcy administration. The facts, which are not so important as the deductions, briefly were:—Plaintiffs were declared defaulters on the Stock Exchange and the Official Assignee commenced to collect the assets. This, it may be remembered, constitutes an act of bankruptcy. Defendants held securities deposited to secure a loan of £10,500. The amount of this loan with interest was tendered by plaintiffs and the Official Assignee, and a surrender of the securities asked for. On account of the circumstances this was refused, and the action was brought to compel re-delivery on payment. The decision may be summarised as follows:—

(a) Notice of an available act of bankruptcy is no defence to an action for recovery of debt, but debtor cannot safely pay same under threat of legal proceedings. His duty is to pay the money into Court and apply for directions.

(b) A secured creditor may safely deal with securities in his hands notwithstanding notice of an available act of bankruptcy, but he cannot accept payment from the debtor or his assignee without leave of the Court, for the debtor is contingently disqualified from tendering or disposing of his property. In an action the act of bankruptcy is no defence, but the Court will generally hang up the action until the rights of all parties have been crystallised.

(c) General effect of decision is to indicate that, under these circumstances, an appeal to the Court should be made.

**Company's
Registrar of
Mortgages.**

In reply to our correspondent "Mortgage," whose letter under the above heading appeared in our last week's issue, we must confess that we do not quite understand the object of employing a solicitor if the directors do not propose to act upon his advice when given. The solicitor has doubtless a much more detailed knowledge of the facts and circumstances than is communicated in our correspondent's letter, and if with this special knowledge he considers that there has been a new transaction, we certainly should not be disposed to doubt it. If for any very special reason it is of vital importance that the charge should not be registered, the directors may think it worth while to take counsel's opinion on the point; but we are afraid we cannot answer off-hand, and in the absence doubtless of many material facts, a question which is in essence one of fact, and not one of law.

The Money Market. At the London Institution last week, before the members of the Chartered Institute of Secretaries, Mr. W. R. Lawson delivered an interesting lecture on "The Abnormal State of the Money Market." The lecturer was doubtful whether London, which still claimed to be the monetary centre of the world, was keeping pace with the growth of that world. Lombard Street was now only one of a multitude of competitive centres, and principles that were sound and reliable thirty years ago were now being

subjected to excessive strain. The most abnormal feature of the present day was the great inflation of credit which had taken place, and as most of this credit was of foreign origin, control over it was naturally difficult. We had many creditable facilities in this country, but our national vanity prevented us from abandoning positions no longer tenable, and throwing off responsibilities which had become neither necessary nor practicable. After dealing in his usual clear and pointed manner with the "scandal" of a 6 per cent. Bank Rate, and the strain on the resources of Lombard Street, Mr. Lawson said that neither bankers nor politicians could bring relief. It was the commercial public which would have to take the question into its own hands after having studied the matter from an independent standpoint.

The Statute of Limitations. In an interesting case (*Re J. G. Emmett; Jenkins v. Emmett*) recently heard

before Mr. Justice Kekewich the facts were somewhat peculiar. A father had lent his son £2,000. The father died in May 1905 and appointed his son as one of the executors of his will. No payment in respect of capital or interest had been made since 1898, so that the claim was, *prima facie*, statute barred. The will was proved by the executors, and in the schedule of debts due to the testator attached to the affidavit for Inland Revenue appeared the item in question. The son died in October 1905 and claim was made in the administration of his estate by the surviving executors of his father's will. On behalf of the son's estate the provisions of Lord Tenterden's Act were urged, but it was held that the acknowledgment made in the affidavit for probate was sufficient to take the debt out of the Statute of Limitations, and that the claim must be allowed.

Railways and Rates. The Midland Railway Company evidently do not intend to be satisfied

with the laurels which they gained in their appeal against the Hampstead assessment, for at the recent quinquennial assessment of the County of London it is reported that the company's Surveyor objected to the assessment of £6,159 gross and £4,106 rateable value for the company's goods and coal depôt, situated in the Borough of Poplar. After hearing their objections the assessments were reduced to £4,500 gross

and £3,250 rateable value, but as this was not considered satisfactory to the company notices of appeal were served to the County of London Sessions. When the case came on for hearing last week, it was stated on behalf of the company that the Poplar authorities had offered to agree to an assessment of £3,450 gross and £2,200 rateable value, each party to pay its own costs. It was added that the Midland Railway Company agreed to these figures without prejudice, in order to save the time of the Court and the heavy costs that would be incurred. As the rates in the Borough of Poplar are 12s. in the £, the reduction in question will mean a saving in rates to the company of £720 per annum for the five years during which the new figures

will remain in force. In connection with this question of railway rates a correspondent of *The Financial News* contributes a very interesting statement, in tabular form, which we append below, showing the total rates and taxes paid for the years 1885, 1895, 1905, together with the ratio of the figures to the net receipts in the case of five of the most important railway companies in this country. The figures speak for themselves, and the increase is almost as astounding as is the inaction of the companies concerned. Evidently, since the Midland Railway has now led the way, a change will come over the scene, and there is likely to be some severe contests on this point in the near future.

Year	Great Eastern		Great Northern		Midland		Great Western		London & North-Western	
	Total of Rates and Taxes	Ratio to Net Receipts	Total of Rates and Taxes	Ratio to Net Receipts	Total of Rates and Taxes	Ratio to Net Receipts	Total of Rates and Taxes	Ratio to Net Receipts	Total of Rates and Taxes	Ratio to Net Receipts
	£	%	£	%	£	%	£	%	£	%
1885 ..	96,855	5.75	110,346	6.86	200,270	2.65	203,640	5.15	257,085	5.15
1895 ..	197,590	10.09	153,529	8.67	303,686	7.52	314,264	7.72	355,820	6.75
1905 ..	313,386	14.13	233,307	11.13	452,462	10.02	592,084	12.51	599,721	10.93

Assessments under Schedule "E."

For income-tax purposes Schedule "E" relates to the salaries of Government officials and others in public employment, and includes many (but not all) of the incomes derived by persons employed by public companies. A comparison of the returns for the year 1903-4 with those of 1904-5 is thus of interest, as throwing some light upon the question whether such salaries are upon the whole increasing. So far as can be gathered from a superficial investigation of the subject, it would appear that while there is a decided increase in the number of persons receiving upwards of £1,000 per annum, the average salary under Schedule "E" is practically constant. In the first two fiscal years under review 355,982 employees received a total of £82,486,051, or an average of practically £233 apiece. In the following year the total number of such employees had increased to 371,420, earning aggregate salaries of £85,652,113, or an average of slightly less than £231 each. These figures, of course, exclude salaries of £160 per annum and less. The increase in the number employed is spread fairly evenly over the various grades, save with regard to the highest, where we find that the number of persons in receipt of a salary of £5,000 per annum has increased from 90 to

108. The return under Schedule "D" shows that only 25 persons paid income-tax on over £50,000 a year, but such a return is in the nature of things quite misleading, in that most persons possessed of more than quite moderate incomes draw them from several different sources, the income being in most cases taxed at the source. It would thus be quite exceptional for anyone to be called upon to personally pay a large sum in respect of income-tax.

Auditor's Lien on Books and Documents.

Our correspondent "Hector," whose letter we reproduced last week, appears to have an altogether erroneous impression with regard to liens. An auditor can only claim a right of lien in respect of property in his possession upon which he has actually put work in accordance with instructions received from the owner of that property. The question as to how far the work of an auditor is sufficiently tangible and evident to entitle him to the same lien that might be possessed (say) by a laundry, or by a book-binder, is one that has not yet been satisfactorily settled, although the probabilities appear to be in its favour. But, however that may be as applied to Loose-leaf Ledgers, if there

can be any justification for unfastening these and separating them into sections, it is clear that under no possible circumstances could there be any lien on the covers or the unused leaves. The lien could only be upon that portion of the Ledger upon which the auditor had performed work, assuming (which we think doubtful) that a Loose-leaf Ledger is capable of being separated for the purposes of determining rights of liens thereon.

The Time for Auditing Municipal Accounts. A correspondent writing to *The Municipal Journal* states that on the 1st ult. he was elected one of the borough auditors of his town, and on the 28th ult. wrote to the Town Clerk asking if the accounts would be ready for audit on the 1st inst., and was informed in reply that when the elections were over, and the committees appointed, the matter would be gone into, and he would be consulted as to date. He apparently considers the delay unreasonable, and our contemporary, while not exactly recommending it, points out that his only remedy is the extreme step of taking proceedings in the High Court to obtain a mandamus directing the Treasurer to comply with the requirements of Section 27 of the Municipal Corporations Act, 1882. For our own part, however, we should have thought that any reasonable business man would have realised that a month is none too long a time for a half-year's accounts to be got ready for audit, particularly if the regular run of business is disturbed by a municipal election.

Accountants' Distinctive Initials. It is not a little remarkable that the tendency of newly-formed bodies of accountants appears to be to as far as possible assimilate their names to those of established societies, and to profess their power to confer distinctive initials even more closely resembling those already appropriated by others. Leaving out of account the notorious Scottish "C.A." case, there is the "F.R.C.A." employed by the Corporate Accountants, as being presumably the nearest that they now think they can get to "F.C.A.," while "F.L.A.A." is at least equally near to "F.S.A.A.," and when writing may be made really surprisingly alike. If these members of outside bodies are really anxious not to be confused with Chartered or Incorporated Accountants, it seems particularly unfortunate that they should not

have adopted a more efficient means of readily securing the desired distinction.

The London Chamber of Commerce Examinations. It is sixteen years since the London Chamber of Commerce instituted, more or less experimentally, a scheme of examinations in various commercial subjects, but it is only of recent years that any considerable number of candidates have taken advantage of the facilities offered. At the most recent examinations, however, the numbers were decidedly large, there being 2,723 candidates for the Junior examinations, and 2,251 for the Senior.

A Warning to Lecturers. We understand that our contemporary *The Accountants' Magazine* has recently written to a gentleman who is about to deliver a lecture before a meeting of one of the English Chartered Accountant Students' Societies, stating that the editor will be very glad to be allowed to peruse the manuscript of this lecture with a view to publication in its columns. The incident suggests to us the desirability of our again drawing attention to the fact that in cases where our Scottish contemporary has secured the consent of lecturers to the publication of their lectures in its columns, it has utilised that consent as a means of preventing the due appearance of these lectures in *The Accountant*, claiming that their appearance in our columns would be an infringement of its copyright. All lecturers must kindly understand, therefore, that if they wish their papers to be reproduced by us it is necessary that they should either refuse the right of reproduction to *The Accountants' Magazine*, or else only accord it upon condition that the copyright remains with them, and that they reserve all rights as to publication.

The World's Gold Production. In *The Financial News* of the 17th inst. a correspondent states that in the most favourable years only two-thirds of the gold production of the world goes to banks and mints, and that in unfavourable years, as now, when profits are abnormal, the whole gold production, and much of the coin in circulation, is used up for personal adornment and the increase of hoards, adding that in no case does either bank or mint obtain other than the surplus left over after every other demand is satisfied, because on the average the conversion of bullion into coin gives the smallest rate of profit to the producer. Arguing upon

these premises, the correspondent expresses the view that under existing conditions a 10 per cent. rate is neither improbable nor unreasonable. We must admit that, granting the premises, the conclusion seems reasonable enough, but inasmuch as there is nothing really very exceptional about present conditions, and a 10 per cent. rate has never been known under such conditions, it seems to us that there must be something wrong, if not with the argument, then with the hypothesis upon which it is based.

**Corporate
Executors and
Trustees.**

Our contemporary *The Solicitors' Journal* has drawn attention to the recent decision of the Supreme Court of Queensland in *Re Bertram* which raises a question of some interest in connection with the appointment of limited companies or other corporate bodies as executors and trustees. The practice is probably more popular in Australia than in this country, and in one State at least there is a public trustee, which, of course, means that the State itself undertakes the duties through a duly accredited agent. The decision in *Re Bertram* appears to have arisen out of an application made by the Union Trustee Company of Australia to have the probate of a deceased testator which had been granted to them in Victoria resealed by the Queensland Court under the British Probates Act, 1898. The Queensland Court, however, has held that inasmuch as the Union Trust Company was incorporated by private Act in Victoria before 1898, at a time when the resealing of probates granted in another part of Her Majesty's dominions was not contemplated, the company has under its constitution no power to apply through an officer or the resealing of the probate in the same manner as it was authorised to apply for probate in Victoria. It would be interesting to know whether Courts in other parts of His Majesty's dominions take the same view, for, if so, a very serious blow has been struck to executorships and trusteeships undertaken by corporate bodies.

**Graduated
Income Tax.**

Our contemporary *The Manchester City News* is jubilant over the news that the Government intends to introduce a scheme of graduated income-tax discriminating between earned and unearned incomes. It seems to us very early to make the announcement in these positive terms, but

before anything in the nature of legislation in this direction can be attempted it is desirable that the Legislature should be much clearer than our contemporary appears to be as to what are earned and what are unearned incomes. The suggestion that people who are kept by others may quite reasonably be expected to contribute a larger share to Imperial taxation than those who help to keep them, and support themselves into the bargain, seems a little too loose for practical purposes, even if we were disposed to accept it in principle. As it stands, we must confess that we do not quite see the advantage of imposing further taxes upon those who are already dependent upon others for their support. *Prima facie* it would seem to be simpler, and even more economical, to tax the latter direct, for ultimately the sur-tax would appear to have to come out of their pockets. Again, if the difference between earned and unearned incomes be regarded as determined by the question as to whether or not the income is derived by way of a return upon an investment of capital, it may be pointed out that accumulations of capital are sometimes accumulations of the hardest earnings, and do not always represent surplus income at that. Equally unworkable, because equally loosely stated, apart from any question of principle, is the suggestion that the individual in receipt of a comparatively large income can afford to pay a higher rate of taxation than every one in receipt of a smaller income. There may be some truth underlying this proposition if it be applied only to extremely large incomes, but it is not difficult to imagine cases in which A., with an income of (say) £300 or £400 per annum, is far better off than B. with an income of three or four times that amount, the taxing capacity of the two being dependent not merely upon their respective incomes, but also upon their respective obligations. For our own part, we prefer to await the report of the Select Committee before discussing the matter; but, in the meantime, we may perhaps say that the problem is by no means such a simple one as our contemporary appears to think.

**Auditors'
Certificates and
Reports.**

When commenting, in our issue of the 10th inst., on the hearing of the charges against Mr. S. G. Massey in connection with the recent failure of the Economic Bank, Lim., we referred to the evidence given by a witness from the Official Receiver's office as to the attitude of the bank's auditors towards the accounts then under consideration.

At this stage anything in the nature of comment upon the case would obviously be improper, but as mention has been made of the audit, it is, we think, only fair that we should without delay place before our readers the substance of the evidence given by the auditors themselves at the adjourned hearing, which took place at Bow Street on the 5th inst. Mr. J. H. Webster stated that he was a managing clerk in the employ of Messrs. Turquand, Youngs & Co., and that his firm audited the accounts of the Economic Bank from 1894 until March 1904. Asked why the 1904 Balance Sheet did not show what securities were held against certain deposits with the Financial Bank, he replied that it was not usual for banks to do this. He added that this Balance Sheet showed what purported to be sums of money aggregating £13,840, which from time to time had been deposited with the Economic by the Financial Bank. He did not look into the books to see whether such money had in point of fact been received by the former because it was customary, as between banks, to get a certificate verifying the balance, unless there was reason to suppose that there was something wrong. The witness continued that it was part of his duty to satisfy himself as to the existence of the bank's investments as represented by them, and he received from the Financial Bank certificates certifying the securities which they held from the Economic Bank. So far as he knew, every document at the bank was available for his inspection, and nothing was concealed. Mr. J. F. Clarke, F.C.A., a member of the firm of Turquand, Youngs & Co., deposed to receiving the last witness's report as to the 1904 Balance Sheet of the Economic Bank. Having regard to the bank's articles of association, he had some doubt as to the legality of its transactions with the Financial Bank, and legal advice was taken on the subject. Up to that time he had never heard of the Financial Bank, but was informed that it had a capital of three hundred thousand pounds and a good foreign connection. Mr. Stanley Howard Percy, who audited the 1905 Balance Sheet, stated that at one of the board meetings he asked for some proof that the shares held by the bank as security were as valuable as they were represented to be, and was informed that the Financial Bank was a sound concern, which statement he had no reason to doubt. We may add that while Mr. Percy is described in *The Times* as a Chartered Accountant, we do not observe his name in the 1906 list of members of the English Institute, nor in the Official Directory of the Chartered Accountants of Scotland for the current year.

Current Law.

ADMINISTRATIONS.

In re Chalinder & Herington. Warrington, J.

Held, that a solicitor-executor appointed under a will creating him solicitor of the testator's trust property, and allowing all professional and other charges for his time and trouble notwithstanding his being such executor and trustee, may not charge for items representing charges for business or work done by him or his firm which were capable of being done by him as trustee personally, and not requiring the employment of a solicitor.—(*Times*, Nov. 19.)

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinions expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Income Tax Claims.

(To the Editor of The Accountant.)

SIR,—I should be obliged for your opinion or that of any of your readers on the following question :—

An agreement is made between a mortgagor and mortgagee to the effect that the latter is to receive a fixed amount by way of interest, irrespective of any fluctuations in income-tax, and that the tax is to be paid by the mortgagor.

The mortgagee claims, therefore, that the income-tax is in effect paid by himself, and that the agreement practically amounts to his receiving interest at a rate which varies with the tax.

Will the income-tax authorities be likely to accept this view, and allow a claim by the mortgagee for exemption or abatement?

Yours faithfully,

QUERY.

[As the mortgagor would not be assessed for tax on the interest, we fail to see the point of this query. Has it got one?—ED. *Acct.*]

Licensing Act, 1904, and Income Tax.*(To the Editor of The Accountant.)*

SIR,—I should be much obliged if you or any of your readers could inform me whether any decision has been come to with regard to the allowance, or otherwise, as a deduction from profits for income-tax purposes of amounts paid, in respect of tied houses, to the Compensation Fund under the above Act.

I have read the letter, published in your issue of 27th January 1906, from Mr. J. W. Stead, F.C.I.S., in which he quotes the opinion of Mr. Danckwerts, K.C. (based on the decision in *Brickwood v. Reynolds* respecting repairs to licensed houses), that such payments could not be deducted; but with all due deference to so high an authority, the two cases do not appear to me to be analogous.

Yours faithfully,

14th November 1906.

D.

Telephone Rent In Compositions.*(To the Editor of The Accountant.)*

SIR,—In a recent case, a composition with creditors was arranged on a date when a year's telephone rent in advance had fallen due a month before.

The telephone company stopped the use of the wire, and (the business being sold shortly afterwards) have re-let the wire to the purchaser, without any removal of same taking place. They claim to have the year's rent included in the list of creditors under the arrangement.

I believe the claim to be legal, but, on the other hand, has the trustee no power to refuse assent to the re-letting of the wire, except on equitable terms? Such terms would be that the telephone company should rank for dividend on a proportionate part of the year's rent only. Otherwise, they make a profit through the insolvency.

Thanking you in advance,

I remain, yours truly,

H. W. HAZLEHURST.

Oldham, 15th November 1906.

[Refer to the telephone company's private Act.—
ED. ACCT.]

Greater New York Corporation Accounts.*(To the Editor of The Accountant.)*

SIR,—There are two quotations from the *Journal of Accountancy* (New York) which I think your readers ought to have their attention drawn to. (1) is by H. W. Wilmot, Esq., C.P.A. He says:—

"One of the objects of the Balance Sheet should be to clearly show bondholders and tax-payers what the assets of the city are.

The capital assets should be classified therefore so as to show:

(a) Property which could be sold, if desired, without interfering with the facilities already enjoyed, such as the waterworks.

(b) Property which might be sold without hampering the city administration, but the disposition of which would involve a loss of convenience—such as parks, public buildings, &c.

(c) Property which it would be impossible for the city to sell under any circumstances—such as bridges, sewers, &c. This classification has in the case of several cities found great favour with bankers in considering the placing of bonds."

Then there is also Dr. F. A. Cleveland, C.P.A.'s statement on Municipal Credit and Accounting Reform, which deals with the city of Greater New York both prior to consolidation and since. He says:—

"In the present Comptroller he sees 'a man who recognises with remarkable clearness the exact situation surrounding the city's credit; one who has the force and energy that give every promise that great improvement will be wrought.' But lest through some misapprehension as to the task which the Comptroller has before him, and the unstinted co-operation necessary to the accomplishment of this much desired end, something may be said of the office of which he took possession in January last. Speaking of conditions of the records in the office of central control not long since, a man of national reputation cognisant of the facts said, 'There are on the city's books over twenty-five hundred accounts of which the accountants of the city themselves do not know whether they represent assets or liabilities.' This may seem somewhat startling, but not less so than a recent expression of one old in the city's service, who vouched for the statement that 'there were between one and two hundred accounts on the General Ledger alone, representing millions of dollars, concerning which those in the Comptroller's office knew practically nothing.' These accounts are balances inherited from pre-consolidation times, and have never been analysed.

That those who are at present in the Comptroller's office are not responsible for the conditions will be understood when it is known that, on the event of one of the largest boroughs being brought under the present charter, several millions of dollars were turned over to the Chamberlain by the Borough Treasurer, and several wagon loads of books were dumped upon the Comptroller, these books were not in balance, and the accountants for the city have not to this time been able to reconcile the cash received with the records. The case cited is not an exception. To walk through the chaos of papers, books, files, and documents that have

been piled in heaps into the offices occupied by the Finance Department of the city by the various borough officers after consolidation, to go over some of the records and see the condition in which they were left, to view the inadequate filing space, to say nothing of the criminal negligence displayed by the city in permitting its most valuable records to be crowded up in unused corners, or at the best packed away in sheet iron shams for safes, some of which were found to have wooden locks, would leave no wonder in the mind of any unbiased observer that the city to-day is unable to publish a Balance Sheet, or, for that matter, even to tell within several millions of dollars the amount of assessments and arrears it has on its books. In view of such a condition we need not marvel so much that some of the books representing revenue assets have not been balanced since 1898, as that the records of cash received and cash disbursed by the general officers of the city since consolidation have been kept clean. During the last eight years there has been a complete balancing record maintained, with Appropriation Accounts, Bonds, Trust Funds, and with cash receipts and cash disbursements."

This statement is so startling that I think it should be known on this side of the water.

There is no English city or borough that is not hundreds of miles away from such a financial condition.

Yours truly,

A FINANCIAL OFFICER.

Directors v. Auditors.

(To the Editor of The Accountant.)

SIR,—The paragraph in your Weekly Notes of the 17th inst. under this head refers, we presume, to Kynochs, Lim., and "the company mentioned in these rumours" which "has now gone into voluntary liquidation" is, presumably, Tubes, Lim. We write to say that the item respecting which our difference with the directors of Kynochs, Lim., arose had no reference to our connection with Tubes, Lim.

We have never heard of the rumour before; if we had we should have promptly contradicted it.

GIBSON & ASHFORD.

Birmingham, 19th November 1906.

[Our correspondents have read into our note much that it neither contained nor implied: they have nothing to contradict.—ED. ACCT.]

Suspension of Articles.

(To the Editor of The Accountant.)

SIR,—May I through the medium of your valuable paper seek information on the following matter.

I have served under articles over half of my term to

a firm of Chartered Accountants; under a special verbal arrangement I was to attend and leave their offices at certain hours, but in spite of my regular attendance I have been requested more than once to conform to the time at which their other clerks attend. I showed no desire to comply with their request, with the result that their request has now become a demand, with threats to suspend my articles.

Under these circumstances I should like to know how I stand in the matter, and would the Institute allow suspension of articles in a case where the articulated clerk is not at fault.

Yours faithfully,

19th November 1906.

FAIR PLAY.

[Obviously only the Council can answer this question. It seems to us only reasonable, however, that an articulated pupil should keep the usual office hours; a concession made to boys fresh from school would not, as a rule, be extended indefinitely.—ED. ACCT.]

Director's Qualification.

(To the Editor of The Accountant.)

SIR,—A point which seems to me to be of interest has recently arisen, and I have referred to several books on company law but can find no case dealing with this particular point. I shall be glad, therefore, to have the opinion of your legal contributor.

The director's qualification in a certain limited company is the holding of £500 in shares (either ordinary or preference). Would one of three joint holders whose total joint holding is more than £1,500 be eligible for election as a director?

I am, Sir, yours obediently,

November 17th 1906.

VERIFY.

Certified Profits.

(To the Editor of The Accountant.)

SIR,—In certifying the profits of a business where fast-running machinery is employed, for the purpose of being incorporated in the prospectus of a proposed limited company, will any of your readers be good enough to state their views as to whether, in their opinion, any liability would attach to the accountants if they omitted to state in their certificate that no depreciation had been charged against the profits certified, and in allowing the prospectus to be issued without in any way disclosing the fact that the certified profits were increased to the extent of the depreciation. Assuming the directors were to insert in another part of

A., B., AND C.

AMENDED BALANCE SHEET.

Dr.

Cr.

	£	s	d	£	s	d		£	s	d	£	s	d
Creditors				2,650	0	0	Goodwill				1,200	0	0
Partners' Capital Accounts—							Sundry Assets	10,934	0	0			
A.							Less Reserve on Book Debts..	284	0	0			
Add $\frac{1}{2}$ share Goodwill	4,000	0	0										
	600	0	0										
	4,600	0	0				Add Cash paid in by C.	10,650	0	0			
Less $\frac{1}{2}$ share proportion paid by C. ..	200	0	0					4,400	0	0			
				4,400	0	0							
B.							Less paid to A. and B... .. .	15,050	0	0			
Add $\frac{1}{2}$ share Goodwill	4,000	0	0					400	0	0	14,650	0	0
	600	0	0										
	4,600	0	0										
Less $\frac{1}{2}$ share proportion paid by C. ..	200	0	0										
				4,400	0	0							
C. (Cash as per contra)				4,400	0	0							
				£15,850	0	0					£15,850	0	0

[The amended Balance Sheet is correct.—*En. Acct*]

Judicature Act, 1875, Section 10, and Liquidations.

(To the Editor of *The Accountant*.)

SIR,—I see that your legal contributor differs from Mr. Dawson (and incidentally from myself) upon this point, but he quotes his cases somewhat diffidently and reasons only by analogy, and I am afraid he has not much confidence in them. If Vaughan Williams, L.J., is correct in saying that the effect of Section 10 is to "include *all rules as to priorities* expressly enacted by "any statute, and made applicable in event of bankruptcy," it must be subject to the specific provision in the section that "all persons who in any such case "would be entitled to *prove for and receive dividends* out "of the assets of any such company," &c.

It is clearly laid down in "Buckley on Companies," 6th edition, p. 398-400, that Section 10 only deals with questions for proof for purposes of dividend, and has nothing to do with preferences. In "Buckley" it is summed up as settled that "no bankruptcy rule which "gives a particular creditor or class of creditors "priority, and thus diminishes the fund, or which avoids "a security and thus enlarges the fund, is brought in "by the section . . . The section, therefore, does "not introduce into winding-up the Bankruptcy Rules "as to (1) avoidance of securities or priorities, (2) "creation of securities or priorities. . . The section "does introduce the Bankruptcy Rules as to valuation "of security and the consequences of it, Section 37, "Bankruptcy Act, 1883, as to debts provable, and the "Bankruptcy Rules as to mutual credit and set-off." These views are supported by a large number of cases,

from the judgments in which I would ask your leave to quote the following:—

"The sole object of the section, as it appears to me," says James, L.J., "was to get rid of the rule in "Chancery under which a secured creditor could prove "for the full amount of his debt and realise his security "afterwards, and to put him on the same footing as "in bankruptcy."

"The section," says Jessell, M.R., "means simply "that the rules in bankruptcy shall apply so far as "relates to the proof and receipt of dividends out of "the assets of the company. I do not find anything "in the Act which says that all the rights and rules of "administration under the Bankruptcy Act shall apply "to the case of a company in liquidation."

"The whole object of Section 10," says Lush, L.J., "as it appears to me, was to make this rule in bankruptcy [as to valuation of security] applicable to "administrations of deceased persons, and to "winding-up."

In addition to the cases quoted in "Buckley," Wright, J., decided (*National, &c., Corporation, Accountant Law Reports*, 20/4/1901) that Section 45, Bankruptcy Act, 1883, is not imported into company liquidation by Section 10, Judicature Act, 1875. May I not also say, "surely then it may be argued" that Section 41 is not imported?

It seems to me that we must choose between the very powerfully supported opinions in "Buckley" and those quoted by your legal contributor, and if it is not troubling him too much, will he kindly oblige a modest layman by saying more definitely whether, in his

opinion, an apprentice is entitled to preferential payment in a winding-up under the circumstances stated.

Yours obediently,

19th November 1906.

DAVID P. DAVIES.

.The Bitter Cry of the Ratepayers.

(To the Editor of The Accountant.)

SIR,—I was pleased to see in your issue of to-day that a municipal accountant had noticed my article on this subject.

I am not concerned to argue the question of "National v. Income and Expenditure Accounts"; that has been settled by Parliament, and is not likely to be altered. Your correspondent quotes Sheffield in opposition, but Sheffield itself, I presume, renders the annual Local Taxation Return in the form required by Parliament. For municipal accounts I regard the cry for an "Income and Expenditure Account" as a bogey (pray pardon my use of the word, I mean no disrespect), and I think it may be scotched if not slayed in this way.

The payments in any twelve months may be separated into two parts: those which belong to the previous and those which belong to the current year; I will call the first (a) and the second (b). Put together for a few years they stand:—

$$\overbrace{(a) \ (b)} \quad \overbrace{(a) \ (b)} \quad \overbrace{(a) \ b} \quad \overbrace{a \ b}$$

And grouped as bracketed *above* the line they give the annual payments *in* the year, and grouped as bracketed *below* the line the expenditure *for* the year. In my paragraph (37) I give a form for the income and expenditure, but chiefly as a check on the Ledgers.

I am glad to find that your correspondent thinks that "probably nine-tenths of my ideas are carried out in many municipalities," but it seems to me very useful to bring them together to enforce uniformity.

If your correspondent would kindly tell us which of my ideas he considers impracticable and which obsolete I should consider it a friendly act. I have purposely numbered my paragraphs for facility of reference by my critics. Further, I wish that he would point out how he would amend them, or what he would suggest alternatively.

I do not ask that he should give his name. It would be quite sufficient that you knew it.

November 7th 1906.

HENRY P. BABBAGE.

Partners' Capital Accounts.

(To the Editor of The Accountant.)

SIR,—I am glad to see that, in your leading article dealing with the points which I raised, you incline to the view that a partner's Capital Account should be left intact, and that profits and drawings against profits should be dealt with in a Drawings or Current Account. I understand that in arriving at this conclusion one of the points which you have considered is the additional clearness in setting out a Balance Sheet which results from this practice. I cannot agree, however, that the average commercial partner does not discriminate between the capital introduced by him (often in the form of cash) and the accumulated profits, which he may leave undrawn in order to provide further capital. My experience has been that he views the latter with considerable pride, and prefers to see them shown as a separate item on his Balance Sheet. Where, on the other hand, capital has been lost, surely the clearest method is to show the original sum and the amount lost as two distinct items deducted one from the other on the Balance Sheet.

Apart from this consideration there is a more material point in connection with the interest. When one clause of a deed of partnership fixes the capital at a certain sum, and the next clause provides for interest on capital, what justification can there be for interpreting the word "capital" to have a different meaning in the second clause from that which it has in the first? You suggest that a clause permitting partners to introduce fresh capital upon certain conditions gets over the difficulty, because by leaving some of their profits undrawn they are in effect introducing fresh capital. But surely a distinction must be made between the deliberate action of introducing capital into a business and the inevitable accident caused by a partner's inability to forecast and draw the exact amount of his profits. Unless the partners deliberately agree to regard a certain portion of undrawn profits as being an accretion to their capitals, it seems to me quite contrary to the terms of such a partnership deed as I have described that undrawn profits should be automatically added to capital and interest calculated upon the aggregate amount. Where there is a provision for interest upon drawings, the effect of treating the Capital Accounts in such a way becomes more acute. For if A. draws extensively and B. draws practically nothing, not only is A charged with interest upon what he does draw, but also his share of profits

is decreased by a proportion of the amount of interest allowed to B. upon what B. does not draw.

I quite agree that the whole difficulty would be removed by reforming the manner in which partnership deeds are drawn up, and I sincerely hope that in course of time the importance of the subject will suggest to the Councils of the Institute and the Law Society the necessity of co-operative action by means of a joint committee.

Yours faithfully,

C. X.

Touting.

(To the Editor of *The Accountant*.)

SIR,—I should like an expression of opinion as to the conduct of a certain well-known firm of accountants in the following circumstances:—

A trustee (a member of the profession) had been appointed under a deed of assignment, when the aforesaid firm (claiming, no doubt, the class of trade in question as their own perquisites and anxious to obtain any fees) draw up a circular, carefully worded so as not to implicate themselves, and take same round to all the creditors asking them to sign, giving them power to investigate with the object of disturbing the trustee in possession.

Is this in accordance with professional etiquette, and are they studying the interests of clients in persuading them to sign such a circular?

My own view is, this is a dangerous form of touting, and is casting an aspersion on a fellow member of the profession.

Yours truly,

November 21st 1906.

ALPHA.

Compensation under the Licensing Act, 1904.

(To the Editor of *The Accountant*.)

SIR,—My previous letter on the above subject was the outcome of my difficulties in attempting to follow the principles laid down by Mr. Northcott in his lecture. His reply has simply increased those difficulties, and as the subject is not only of importance *per se*, but also one which raises points of general application, I trust you will permit me to deal with the matter somewhat lengthily.

In criticising Mr. Northcott's paper I will adopt all those factors which are assumed by him to have been "settled" by valuers, viz.:—Prospective Annual Values, Number of years purchase, &c.

On page 555 there appears "one method of comparing the claims to show the various interests of

"those concerned in a licensed house." It is based upon the annual average trade for three years, and may be conveniently summarised thus:—

	£	s	d
Gross Profits on supplies to the house	377	10	0
Year's purchase	..	..	12
	£4,530	0	0

Difference in Rent:—

Rent Reserved £80 per annum capitalised on 5% basis ..	£1,600
Rental value of Premises unlicensed, £70 capitalised on 7% basis (sic)	£997
Less cost of alteration ..	200

	797	803	0	0
	5,333	0	0	
Depreciation of Fixtures	100	0	0	
	£5,433	0	0	

As already stated, this is called the "Claim showing the various interests concerned." Later in the lecture the following words appear:—"Having arrived at the value of the licensed premises," and in the absence of anything else I can only conceive that the foregoing is referred to. Still later, after preparing accounts in detail showing the different interests concerned and bringing them out in aggregate much in excess of the foregoing, I find these words:—

"The total claims of the interested parties, as shown by the foregoing statements, amount to £7,042, but as the total compensation awarded is only £5,433, the individual claims will have to be abated proportionately."

Thus apparently the £5,433 is:—

- (1) The claim of all parties; then
- (2) The value of the premises; and then
- (3) The compensation awarded.

The one amount cannot be all three. I respectfully submit that it does not, on the figures given, represent what the claim of the parties should be, nor can a claim for compensation possibly be the same as the value of licensed property which admittedly would have substantial value though unlicensed.

The £5,433 contains nothing for the tenant's interest and apparently nothing for the landlord's reversion.

Mr. Northcott's hypotheses were:—

Freehold fully-licensed house leased to brewers £100 per annum, thirty years to run, sublet to licensee at £80 per annum, with "full tie" and option to renew to end of brewer's lease. Structural alterations to be effected by landlord. The brewer paid premium equal to £30 per annum throughout the period of the lease. Ascertain the value of the various interests in the house

for compensation purposes on escheatment of licence on the assumption that the brewers or their assignees retain the lease for the residue of the term.

I will place against Mr. Northcott's valuations of the landlord's and brewer's interests what I respectfully submit as an alternative method, and I will state my reasons therefor.

(The figures relative to the tenant and the owner of the fixtures call for no remark, except that the former are not included in the £5,433.)

MR. NORTHCOTT'S METHOD.			SUGGESTED ALTERNATIVE METHOD.		
Owner.			Owner.		
Estimated Rack Rental as Licensed Premises, £150.	£	s d	Estimated Rack Rental as Licensed Premises, £150.	£	s d
20 years' purchase ..	3,000	0 0	20 years' purchase ..	3,000	0 0
Rental Value after escheatment of Licence ..	£70		Deduct Rental value after escheatment of Licence ..	£70	
Less 5% Interest on £200 for alterations ..	10		(On 7% table) ..	1,000	0 0
	£60				
14½ years' purchase 'sic' (7% table) ..	855	0 0			
	2,145	0 0		£2,000	0 0
Present value due 30 years hence at 4% ..	£661	0 0	Present worth at 4% due 30 years hence ..	617	0 0
			Cost of alterations ..	200	0 0
				£817	0 0
Brewer.			Brewer.		
It has been shown that the profit on the liquors supplied to the house was (sic) ..	377	0 0	Profit on supplies of liquor as shown ..	377	10 0
But in order to do this the Brewer loses annually in Rent £20 and in proportion of Premium for Lease ..	30		Year's purchase ..		12
	50	0 0		4,530	0 0
Year's purchase ..	327	12	Deduct present value of £50 per annum for 30 years at 4% ..	865	0 0
	£3,924	0 0	Add present value of £60 per annum for 30 years at 4% ..	1,038	0 0
Actually ..	£3,930	0 0			
				£4,703	0 0

I will now endeavour to justify the variations I have suggested.

Owner's Claim.—I recognise that, as licensed premises, £150 a year rent and 20 years' purchase are the valuer's factors, and that, as unlicensed premises, he has reduced the rent to £70, and the number of years' purchase to 14½. But what has an immediate payment of £200 to do with any number of years' purchase?

First assume that mere differences of rent and years' purchase has arisen, and then value the loss, adding our immediate outlay. Why discuss interest on money

which will be paid to the owner either before he pays it away or very soon after?

My solution differs from that of Mr. Northcott by £156. May I explain how it arises?

He takes £200 and transforms it to annual value on a 5 per cent. basis; then he throws it back into a capitalised state on a 7 per cent. basis; then, although the money for the alterations is due now, and must be paid before the premises can produce the diminished rental of £70, he calmly discounts it at 4 per cent. as though it were due (like the rack rental) 30 years hence.

Thus:—

£200 Compensation for alterations necessary now at 5%	£10
Capitalised at 7% per annum	£143
Present worth at 4% due 30 years hence ..	£44

Thus, by a "think of a number" process (of ever blessed boyhood memory) the £200 becomes £44. This accounts for the £156 difference.

Brewer's Claim.—Although the lease has 30 years to run, trading profit is fickle, and the valuers have here decided that twelve times the average annual profits of the past three years must be regarded as the capital value of the profits for the remainder of the lease. But 12 years' purchase is not applicable to matters quite as certain for 30 years as the reversion at the end of that time. The brewer, Mr. Northcott tells us, must be assumed to be responsible for the lease to the end of the term at the £100 per annum or find (at a price) someone else to take his place. As lessee, the brewer each year paid out £100 as rent, and wrote off £30 by way of proportion of premium and received £80—annual loss £50.

After the escheatment of the licence he will still be paying out or writing off £130 per annum, but only receiving £70—annual loss £60—or £10 more than previously.

If the compensation were being based upon the footing that the lease was broken on the escheatment of the licence, the brewer would only have been entitled to £3,665, but he is to remain lessee, therefore his compensation must be increased accordingly.

In Mr. Northcott's solution the brewer is charged with the annual rent and premium loss during the existence of the licence on a basis of twelve years' purchase only, viz.—£600. I submit that £865 is the proper sum to deduct. *Per contra*, as I pointed out in my previous letter, he has not allowed for the fact that the owner is only being compensated for his reversion

and alteration outlay because the brewer remains liable for the full rent for the thirty years. For this the latter is entitled to £1,038. Thus, £1,038 short and £265 too much make the £773 difference between us.

The brewer's position can be put in another way. He pays his annual "rent and premium" loss out of his profits. When he receives twelve years' purchase on £377 10s. he is presumed to have all the profits for the thirty years. Out of that capital sum (viz., £4,530) he must continue to recoup his future annual loss on the lease—agreed; but his future annual loss will be £10 a year more than it was, therefore he is entitled to the present worth of £10 per annum for thirty years at 4 per cent., or £173, giving a total of £4,703 as shown in the account above.

Yours faithfully,

November 19th 1906. SIDNEY S. DAWSON.

The Institute of Chartered Accountants in England and Wales.

THE following is a list of applicants admitted at the Council meeting held on the 7th November 1906, who completed their membership before the 22nd inst. :—

Former members re-admitted to membership :—

Associate in Practice.

Turner, George Sydney, Lindow Bank, Wilmslow.

Associate not in Practice.

Spenser, Norcliffe, 85 Woodstock Road, Bedford Park, Chiswick, W.

Associate elected to Fellowship.

Worsfold, Arthur James (Worsfold & Hayward), Market Square, Dover; and at London.

Admitted as Associates not in Practice.

Acworth, John Gordon, clerk to F. J. Livesey, 41 Finsbury Pavement, E.C.

Beardsall, Arnold Arthur, clerk to Astbury, Turner & Co., 42 Spring Gardens, Manchester.

Clare, Thomas, clerk to Gough & Wright, 267 Castle Street, Dudley.

Curtis, Bertram Ernest, clerk to Gérard van de Linde & Son, 50 Gracechurch Street, E.C.

Dowler, Frank, clerk to Herbert S. Lysons & Co., 83 Bridge Street, Deansgate, Manchester.

Dudley, Ernest William, c/o Wilkinson, Reckitt, Williams & Co., Accountants, 801-806 Marquette Building, Chicago, U.S.A.

Evans, Norman de Lacy, clerk to Beevers & Adgie, 52 Basinghall Street, Leeds.

Finnemore, Frederick William, clerk to Felton & Co., 131 Edmund Street, Birmingham.

Goodwin, George Herbert, Leek, Staffordshire.

Haughton, William Kay, 55 Chorley New Road, Bolton.

Jackson, Francis William Jex, B.A., clerk to Jackson,

Pixley, Browning, Husey & Co., 58 Coleman Street, E.C.

Jamieson, Percy Somerville, clerk to Mellors, Basden & Co., 33 St. Swithin's Lane, E.C.

Jennings, William James, clerk to J. E. Pritchard & Co., 71 Colmore Row, Birmingham.

Judson, Charles, clerk to Bath & Stewart, Norwich Union Chambers, Edmund Street, Birmingham.

Nixon, Isaac, clerk to Leather & Veale, 1 Princes Street, Harrogate.

Scott, Arthur, clerk to William Morton, 31 Water Street, Hyde.

Sheridan, Henry Hamilton, 100 Thurlow Park Road, West Dulwich, S.E.

Shoveller, Harold Langley, clerk to Gribbon, Holroyd & West, 5 & 6 Great Winchester Street, E.C.

Soddy, Robert James, clerk to James Worley & Sons, 37 Lime Street, E.C.

Terras, Herbert, clerk to P. G. Swanwick, 64 Cross Street, Manchester.

Tootill, Sidney, 15 Scarborough Road, Leytonstone.

Liverpool Society of Chartered Accountants.

Annual Dinner.

THE annual dinner of the Liverpool Society of Chartered Accountants was held at the Exchange Station Hotel, Tithebarn Street, Liverpool, on the evening of Thursday, November 15th. Mr. Edmund D. White, F.C.A. (President of the Society), occupied the chair, and others present included the Lord Mayor of Liverpool (Right Hon. John Japp), Messrs. W. B. Peat, F.C.A. (President of the Institute of Chartered Accountants), J. B. Ball, F.C.A. (Vice-President of the Institute of Chartered Accountants), Richard Barrow (City Treasurer and Controller), John Cameron (President of Liverpool Incorporated Law Society), John Clayton (President of Liverpool Cotton Association), Hon. G. Colville (Secretary of Institute of Chartered Accountants), Mr. H. F. Hawkins, Sir Thomas Hughes, Messrs. J. Harrison Jones (President of Liverpool Timber Trade Association), R. Ibbetson-Powell (Treasurer Mersey Docks and Harbour Board), H. R. Rathbone, C. H. Ross (Senior Surveyor of Income-tax, Liverpool District), A. E. Showell (President of Liverpool and District Society of Incorporated Accountants),

J. Hope Simpson (President of Liverpool Institute of Bankers), H. E. Abbott, W. H. Alexander, G. H. Ashworth, H. Bennion-Booth, H. Beswick, W. Blease, H. Blease, H. Bowler, G. Bowler, J. Bretherton, G. F. Clarke, A. E. S. Cook, B. Cookson, T. Coward, R. R. Daly, W. P. Davidson, E. J. Deane, W. Denton, A. F. Dodd, C. E. Finney, W. F. Flack, Dr. Gemmell, Messrs. J. A. S. Hassal, F. Holt, G. S. Horbury, B. Howarth, W. L. Jackson, S. Jude, T. B. Maccabe, G. Maxwell, C. H. Mitchell, W. E. Mounsey (Hon. Sec.), C. H. Nelson, E. T. Nicholson, E. W. C. Oates, G. S. Oldham, G. E. Robinson, T. Sheard, W. A. Taylor, J. M. C. Webster, J. H. Welch, P. B. White.

The loyal toasts were honoured on the invitation of the Chairman.

The Chairman said he must first express regret that their dinner should happen to be on the same date as the banquet given by the Chamber of Commerce, of which Sir Alfred Jones was the head, to the Portuguese Ambassador. When they heard that the dinner to the Portuguese Ambassador was to be held on that evening it was too late to alter their own arrangements. All their Council desired to express their regret that the dinners should have clashed, for it meant that they were deprived at that dinner of several leading representatives of shipping and commerce. They were particularly delighted to see the Lord Mayor, and wished to express their grateful sense of thankfulness to him for kindly fixing the date on which to attend their dinner so early in his year of office. (Applause.) They had made a very interesting discovery with reference to the Lord Mayor since they had entered that room—that was, they had discovered that his Lordship and the President of the Institute of Chartered Accountants (Mr. Peat) were schoolboys together in Montrose. (Applause.) The two had not been there many moments when they mutually discovered that interesting fact. There was no pre-arrangement about the meeting. He was quite sure it was a great happiness to the Lord Mayor to meet one of his old schoolfellows, and an equal happiness for Mr. Peat, their President, to meet in the person of the Lord Mayor one of his old schoolfellows from the Academy at Montrose. He desired to congratulate the Lord Mayor on his election to the chief magistracy of the city, and to express their hope that he might have health and strength faithfully, as they were sure he would, to discharge the very onerous duties of the high office to which he had been called. (Applause.) It seemed to him (Mr. White) an appalling thing to look forward to a year of duty such as that which was to be fulfilled by the Lord Mayor. He would like to thank the Lord Mayor for his presence, and to express their regret that the dinner to the Portuguese Ambassador being held that evening would compel him to leave their company

early. About the Lord Mayor he would say, in the words of Elizabeth Barrett Browning:—

"A poor man served by thee shall make thee rich,
A sick man helped by thee shall make thee strong.
Thou shalt be served thyself by every sense
Of service which thou renderest."

—(Applause.)

The Lord Mayor, in replying, offered his hearty thanks to the Chairman for the kind way in which he had spoken of him. The Chairman, however, he said, made quite a mistake in supposing that they were under any indebtedness to him for being there that night. He had come there that night with the very greatest satisfaction and pleasure, and he had enjoyed himself very much, and he was only sorry that the other engagement, to which reference had been made, compelled him to leave early. It had been a singularly fortunate thing for him, as their Chairman had said, that he had met Mr. Peat, with whom he was at school over forty years ago, and whom he had never met, until that night, since they were boys at school together. He came there that night with a glimmering in his mind that Mr. Peat was a Montrose man, and as Mr. Peat was putting the question to him as to whether he was not in the school at Montrose, he (the Lord Mayor) was putting the same question to Mr. Peat. (Laughter.) They had had a very pleasant time in reminiscing over the old town and the old times. Mr. Peat had been a fortunate man, thanks to his own ability, and as for himself (the Lord Mayor), although he had not been fortunate like him —(laughter)—he had no cause to complain. (Renewed laughter.) Liverpool was a capital place for any young Scotchman to come to. He thanked them very warmly indeed for their kindness. (Applause.)

The Lord Mayor then left the banquet for the purpose of attending the other function to which reference had been made.

The Chairman gave the toast of "The city and trade of Liverpool." He said they all knew that a few weeks ago there was unveiled in Liverpool a splendid memorial to Queen Victoria. That memorial stood upon the site of a baronial castle, built in 1078 and taken down in 1731. In 1207 King John granted a charter to the town. In 1272 there were only 840 inhabitants of the town of Liverpool; in 1801 this number had grown to 77,000, but in 1903 it had increased to 716,800. The growth in ships had been also equally remarkable, for whereas in the year 1540 there were only 12, in 1648 only 24, in 1752 only 437, and in 1849 8,793, what was the position to-day? Liverpool now owned four-fourteenths of all British tonnage, and four twenty-ninths of the tonnage of the whole world. (Applause.) Then, again, there was the growth of the Liverpool Dock system. He was glad that night to welcome amongst them the new Treasurer of the Mersey

Docks and Harbour Board (Mr. Richard Ibbetson-Powell), whom he had had the honour of numbering amongst his own personal friends for over thirty years—ever since they were boys together. (Hear, hear.) The Dock Board, as was known to them all, was the controlling authority of the whole system of docks on the river front, which, he believed, was the envy, not only of the city of London, but of many other cities as well. As they knew, there had been under very serious consideration an endeavour to introduce a system for the London Docks somewhat similar to that of the Mersey Docks and Harbour Board. They had at the present time in Liverpool a line of continuous docks extending over seven miles, and having a lineal quayside of over thirty-five miles. (Applause.) They had also in Liverpool grown in the rapidity with which their vessels were received, loaded, and despatched. He might perhaps just cite two instances of that rapidity of despatch. The Canadian Pacific steamer "Lake Champlain" arrived on a Sunday. In forty-eight hours she had discharged twelve thousand tons measurement of cargo, and sailed on the following Wednesday morning with two thousand tons of coal and cargo and a large contingent of troops. (Applause.) The other instance was that of the steamer "Irada," from Galveston, with 30,026 bales of cotton, 620 tons of wheat, and 2,800 bags of flour. She commenced discharging that huge cargo at 1 p.m. on the 5th November 1900 and finished it at 10 p.m. on the 9th. She then took in 2,500 tons of bunker coal and sailed again at noon on the 10th. Nearly the whole of the cotton was weighed as landed, and was removed by the consignees within three days. (Applause.) Again, if they contrasted the warehouses of the city with those which existed twenty years ago they would see a very enormous growth. The latest of the warehouses was that magnificent one, the tobacco warehouse at Stanley Dock, erected by the Dock Board. It had been said that if it were possible that they could take St. George's Hall, magnificent and vast as that building was, they could place it entirely inside the walls of the new tobacco warehouse at Stanley Dock. (Applause.) They also saw the growth on all hands of enormous warehouses in order to contain the produce that came into the country through the Mersey, one of the greatest gates of our Empire. (Applause.) They had, as they knew, very fine warehouses in addition to those of the Mersey Docks and Harbour Board. They had, for instance, the vast warehouse at the Alexandra Dock for grain, and a new enormous one now in course of erection, or just finished, at the Coburg Dock. (Applause.) He had an opportunity a few days previously of inspecting a map of Liverpool of the year 1650, and it proved a most fascinating and interesting study to think of the town as it then was, and compare it with the city as it now existed. The extent of the city might be gathered from the fact that though St. John's

Church was not built for a long period after 1650, when it was built it was described as "St. John's on the Heath, near Liverpool." The map of 1650 revealed the fact that the town of Liverpool extended from the river side to about what would now be Hatton Garden, which was then called "Did Lane." Immediately opposite Hatton Garden was an estate and house, from which Crosshall Street obtained its name. "Crosse Hall" was situated almost immediately opposite Did Lane; and upon what was now the site of the Municipal Offices the estate of Lord Derby existed. The town in the southerly direction extended to what was then called "Pool Lane," which was synonymous with South Castle Street. The Pool passed along where the present Custom House was and along Paradise Street and Whitechapel. That was the boundary of the town on the southerly side. In a northerly direction the town extended into Old Hall Street, certainly not farther than the new Cotton Exchange. The only buildings of any importance in those days were those of the "Fort," the old Church of St. Nicholas, or its predecessor, which was destroyed by fire; just about where George's Dock was the Custom House stood. That was the picture of Liverpool so recently as 1650. When they thought of that, and compared it with the city now extending from the river to West Derby on the east, to Aigburth on the south, and to Bootle on the north, it gave them some idea of the enormous growth of the city. (Applause.) They had not only grown in commerce, but they had grown also in other ways. The streets were formerly narrow, badly paved, and badly lighted; they were now broad, well paved, and splendidly lighted. Liverpool had now some magnificent buildings devoted to commercial purposes, such, for instance, as the Royal Insurance Offices, The White Star Line Offices, Colonial House, and the new Cotton Exchange. The city was also well equipped with hospitals, having, besides others, the Royal Infirmary, the Northern Hospital, and the Children's Infirmary; whilst in the matter of educational progress it was gratifying to know that they had now the University, the Technical School, the Council Schools, and the Central and Branch Libraries. There were also excellent opportunities for recreation. He could remember very well when there was only one park in Liverpool—namely, Prince's Park. Five or six large parks had come into existence for the benefit of the citizens during the last forty years. Besides the parks a large number of open spaces had been provided in the last few years for the recreation of the people who lived in the immediate vicinity. There had also been an enormous growth in the extent and character of the means of transit in the city. They could all of them remember—he could as a boy—reaching the city by a 'bus, and paying no less than 5d. to go from Belmont Road to the centre of the city. They could now boast of a splendid

system of electric trams, covering fully seventy-five miles, and conveying the people to and from all parts of the city. He had the greatest pleasure in offering the toast of "The city and trade of Liverpool." (Applause.)

Mr. John Clayton (President of the Liverpool Cotton Association) responded. He said he felt particularly proud to be asked to make response to that toast, inasmuch as he was a Liverpool man. He was born in the city, and had lived in it and worked in it all his life. Looking back over a period of nearly fifty years, there were certain things in the progress of the city and its trade which stood out prominently in his mind—namely, ships, docks, streets, locomotion, and buildings. (Applause.)

Sir Thomas Hughes submitted the toast of "The Institute of Chartered Accountants." He said he rose with very great pleasure in response to the Chairman's call, and yet he felt that he never was in such a difficulty as at that moment. He thought, after the way the Chairman had acted that night as the President of that dinner, that he had given such evidence of his ability not only to propose toasts, but to conduct a function of that sort with very great credit to himself, that he (Sir Thomas Hughes) might very well have been excused if the Chairman had proposed that toast himself. He felt, however, that he must proceed with his task, even though he might leave himself open to grave criticism from the President of the Institute (Mr. Peat), whose name he would associate with the toast, and who would respond to it. Indeed, he might find himself in the position of a congregation in Ireland, on one occasion, when the priest was taking leave of them for a new sphere of work. The priest addressed them in these very significant words:—"Ye have not loved me, "because ye have not contributed anything towards my "maintenance. Ye have not loved one another, because I "have not been called upon to preside over a marriage "feast; and the good Lord above has not loved you, "because He has not taken one of you, and I have never "had to preside over a funeral." (Laughter.) He (Sir Thomas Hughes) could imagine that this would be something like the criticism which he would leave himself open to from their distinguished President (Mr. Peat). (Renewed laughter.) In thinking over what he could say, there was one thought, and only one thought, he would give utterance to in association with that toast, that was a little experience which he had had as a member, some time ago, of the City Council brought face to face with past members as well as present members of the Institute of Chartered Accountants. He could remember in the early days of his connection with the City Council being associated with very dear friends now departed—Mr. Edward Mounsey and Mr. Peter McQuie. He knew those gentlemen as auditors acting for the ratepayers of the city, and he then learned to appreciate the

distinguished services which those gentlemen gave as auditors of the city accounts. Their places were taken afterwards by his friends their Hon. Secretary (Mr. W. E. Mounsey), acting with Mr. Stubbs. They also discharged the duties with very great credit to themselves and with satisfaction to the people. But during the last few years they had arrived at rather a worse state of things. They had at the present moment a member of the Institute of Chartered Accountants who was one of the elective auditors of Liverpool, but unfortunately he was associated with a gentleman who knew little, if anything, about accounts, and therefore could not be of any practical assistance to him nor to the people of Liverpool, but, he would rather say, a hindrance. (Hear, hear and applause.) He (Sir Thomas Hughes) would ask any sensible man what possible good could it be to a community to tell them that the Corporation ought to buy their penny buns at fourteen for 1s., or that somebody had had an extra glass of whisky at some luncheon. That was not what they wanted from their elective auditors. (Applause.) He (Sir Thomas Hughes) was going to make an appeal to his hearers that night, as civic patriots, whether they should not establish a better state of things than they had at present. (Applause.) The profession of Chartered Accountants had not contributed very largely to the membership of the City Council, although they had Captain Denton, Alderman Simon Jude, and Mr. Harmood-Banner, M.P., as exceptions to that rule. He did not regard that so much as the absence from the ranks of members of the City Council of well qualified gentlemen to go into the matter of Corporation Accounts. It was a very important matter for the ratepayers of Liverpool that they should have qualified gentlemen who had a knowledge of accounts, who could make themselves thoroughly acquainted with the Acts of Parliament of Liverpool, and with all the borrowing powers given under Provisional Orders, and such like. It was that sort of information they wanted, and to prevent leakages, if they were to have any benefit at all from a people's audit. He could tell of instances where very great advantage could be given, and of great leakages that were going on, and it only required that public attention should be called to them to rouse the ratepayers to a sense of their duty, which was really what they wanted. (Applause.) He appealed to the members of the Institute in Liverpool that they would take a personal interest in that matter, and try and rouse public opinion to a better state of things. They knew very well that when it came to the election of their elective auditors the people, as a rule, took little or no interest in it, and that was the reason why a gentleman calling himself a Socialist, with no knowledge of accounts, could be returned as one of the elective auditors of Liverpool. (A voice: "Shame.") That was a disgraceful state of things,

and a state of things that ought to be remedied in their own interests. Therefore he appealed to his hearers that they should give some attention to that matter, and that they should take care that distinguished members of their profession should offer themselves as candidates, and try and arouse public opinion in their favour, so as to have those duties discharged in a proper way. (Applause.) What was wanted, too, was that more facilities should be given to the ratepayers to exercise the duty which devolved upon them. They wanted more than one polling place at St. George's Hall. They wanted a better state of things to be established. If an appeal were made to the commercial interests of the city they would find themselves supported by prominent men, in order that they might remedy the present disgraceful state of things. (Applause.) He had to associate with that toast the name of their distinguished President, Mr. Peat. Happily for him (Sir Thomas Hughes) the Lord Mayor had already been able to say something for him, and had claimed an acquaintance of forty years ago. He felt grateful to Montrose, for it had supplied Liverpool with a splendid specimen of the Scotch race as its Lord Mayor, and it had also furnished the Institute of Chartered Accountants with an excellent President. (Applause.)

Mr. W. B. Peat, F.C.A. (President of the Institute of Chartered Accountants), responded. At the outset he said he must ask for their kind indulgence while, for a moment, he referred to the happy event which had taken place that evening in the meeting between him and his old friend and schoolfellow the Lord Mayor. (Applause.) It was true that the winters of forty years had passed over them, but it was also true that they were not snowed under, although the snows of winter had just left a dusting of winter upon them which was permanent. (Laughter.) He did not remember precisely how his dear friend the Lord Mayor looked forty years ago, and he did not remember precisely how he (Mr. Peat) looked forty years ago either. (Laughter.) Liverpool was to be congratulated on having as its Lord Mayor a man of sterling integrity; a man of great capacity; a man of wide experience, and of large knowledge. (Applause.) He was very much obliged to Sir Thomas Hughes for the kind remarks he had made with regard to the Institute, and in regard to himself (Mr. Peat) personally. He (Mr. Peat) could not quite enter into all the local matter to which Sir Thomas Hughes had referred, but he felt absolutely certain that it was most important for their Institute, and most important for every town and city in which they were represented, that they should take their fair share of municipal management and municipal government. (Applause.) He was hopeful that in the city from which he came, London, and in the city of Liverpool, things would be mended in that respect. (Hear, hear.) It was a great pleasure and satisfaction to

him to be able to accept their invitation for the second year in succession. It was like coming to a function that he knew something about, and like coming to friends that he had met before. Hence he thanked them doubly for the invitation they were kind enough to send him. The importance of their Institute was enhanced by the fact that they were supported by Societies in such districts and centres as Liverpool, Manchester, and elsewhere. The great tree of their Institute only existed because of its branches; its branches moved the great trunk of the tree, and from those branches the tree derived life and health. (Hear, hear.) He hoped that the Institute would long thrive, and that the branches in Liverpool, Manchester, and elsewhere would contribute, as they had done in the past, to that forward movement which had been so amply demonstrated in their past history. He felt that to reply to that toast, which had been on so many years in succession replied to by gentlemen in his position, was a somewhat difficult matter. It reminded him very much of the man who presided over a Burns' centenary festival. The man wondered what on earth he could find to say. Everything had been said in relation to his subject which he could think of, and he became bankrupt and dry for want of some new observation to make. While in regard to the Burns' centenary festival that might be the case, he felt that in regard to Chartered Accountants there was something not dead one hundred years ago, but something living, and thriving from day to day, and something to be proud of, and that was the Institute of Chartered Accountants. (Applause.) It was true that he need not say anything about the numbers of their Institute—they swelled year after year, and its power and influence in the world seemed to increase as the years went on. It might be almost said, in the language of the old hymn:—

“ From Greenland's icy mountains,
From India's coral strand,”

(Applause.) They spread over every country; they spread over the continents of Europe, Africa, India, China, and Canada. In every one of those centres they would find representatives of the Institute of Chartered Accountants struggling to make a living, and struggling to assist the commercial enterprises which were committed, to some measure, to their care. There was not a vessel that sailed the deep on a commercial quest but had a Profit and Loss Account, and there was rarely a Profit and Loss Account which was not visé by an accountant, and in nine cases out of ten by a Chartered Accountant. (Applause.) Those facts spoke for themselves, and it was not necessary for him, therefore, to dwell upon them. Their Institute thrived and prospered, and it might safely be said of it, “It has been and shall be.” (Applause.) They had attained even more than their majority; they were attaining to their thirty years of life, and they were beginning to look round

them and see what else they could do. There was a great deal more to be done yet: they were still, in one respect, standing where they stood in 1880, when the Charter was granted—they were still without any public legal protection; they were still without any legal recognition as a profession. It was true they had a Royal Charter, and of that they were justly proud. He thought they had made good use of their Royal Charter, and that they had shown the world and their clients, and the people in this Kingdom, that they were to be trusted with the affairs committed to their care. (Applause.) He thought the time, however, had arrived when they should seek by negotiations with their friends in the other Society to have some form of registration—(applause)—a form of registration which would prohibit from practising those who had no qualifications to practise, and which would close the door of their profession to all save those who were qualified to discharge the onerous duties which they were called upon to fulfil. (Applause.) That, in his opinion, was the immediate subject for their consideration; that was the subject of their next forward progress, in his opinion, and he was happy to think that in that forward movement the Liverpool, Manchester, and the Birmingham Societies had not been behindhand; in fact, they had been the Societies that had moved the clock, and he hoped successfully brought the Council of the Institute to see that a step in that direction was a wise and prudent step. (Applause.) Whilst he told them that they had no exclusive status, he did not mean to say that they, as an Institute of Chartered Accountants, were alone to have such exclusive status. Every accountant who was qualified to discharge the duties which he undertook was quite open to come within the circle of registered accountants. They sought no exclusive rights, but rights which were only for the protection of the public and for their own benefit and advancement—mainly for the protection of the public they sought those rights, not only on behalf of themselves, but on behalf of every accountant belonging to any Society who was qualified to discharge the duties of an accountant. The qualification that they said was necessary to be registered was that the accountant should be in practice, and should be qualified to discharge the duties which he undertook. He wished to make it absolutely clear that they, as an Institute of Chartered Accountants, sought no exclusive rights, and did not seek to exclude a single member of any Society practising as an accountant from being registered. (Applause.) He felt that he had detained them somewhat, but there was one word more he would like to say, and that was that they were happy to know that the Government, from time to time, had called upon them to place representatives on the Commissions which had been appointed to consider various matters. Amongst these he would like to mention the Income-tax

Commission, upon which sat their dear friend Mr. Adam Murray, now gone to his long account. Adam Murray was a man whom they all respected and admired with affection and veneration; he ably represented the Institute of Chartered Accountants on the Income-tax Commission. Then there was the Commission to consider Municipal Accounts, of which Mr. John Gane, their late President, was a member. There was also the Commission to consider the Companies Acts, of which Mr. Edmund Waterhouse, a man second to none, was appointed a member. He was sure that the report which emanated from that Commission was a very excellent document, and represented an admirable and acceptable alteration in those complicated laws relating to public companies. The last of the Commissions was that for the consideration of the bankruptcy laws. He (Mr. Peat) had the honour to be a member of that by nomination from the Council of the Institute of Chartered Accountants. (Applause.) That Commission was still sitting and doing good work. It was giving most careful attention to all the matters which were submitted to it, and hearing evidence from every quarter where evidence appeared to be useful. (Applause.) He thanked them for the kindly way in which they had received the toast. He trusted and believed that the Institute of Chartered Accountants would live and thrive under succeeding Presidents, who would be able as the years went on to give an equal account, as he had done that night, of the satisfaction with which their clients regarded their services. (Applause.)

Mr. J. B. Ball, F.C.A. (Vice-President of the Institute), offered the toast of "The legal profession." He said the legal profession was very closely allied to the profession of the Chartered Accountant. The legal profession was, of course, the older profession, and in some respects there might perhaps be a little overlapping of the work which devolved upon the legal profession and their own. He was sure, however, that a very great good feeling existed between the two professions; in fact, he might say the goodwill of the legal profession was a very important asset of the Institute of Chartered Accountants. He was sure all present would acknowledge that the toast he had to propose was that of a body of men who in intelligence, integrity, and high standing were not to be equalled in the whole world. (Applause.) With that assertion, which he confidently said could not be gainsaid, he asked them to drink success and good health to the legal profession. (Applause.)

Mr. Herbert R. Rathbone (Barrister-at-Law), who replied, said he appreciated very highly the privilege of being present that evening. The essential unity of the task upon which they were all engaged stood for the advancement, prosperity, and well being of the community in which they moved. (Applause.)

Mr. John Cameron (President of the Liverpool Incorporated Law Society) responded. He said he hoped and believed that the close association which had existed for so long between the legal and the accountancy professions was likely to continue always. The dividing line between the work which was allotted to their professions was a very difficult one to define, and he was not going to attempt to define it that night. He would, however, say that in Liverpool especially they had always worked together to arrive at the same end with good fellowship and tact, and an allowance made between themselves, and it had been of mutual advantage and for the success of the town in which they both carried on their business. (Applause.) It had been to him, as representing the legal profession in Liverpool, a great pleasure and privilege to be there and to meet them all, and the function was one which he esteemed and valued as much as any he had been able to take part in this year. (Applause.)

Mr. Ben Cookson, F.C.A. (Vice-President of the Liverpool Society of Chartered Accountants), proposed "Our guests." He assured the visitors from kindred Societies of a most cordial greeting, and said they desired as a Society to merit what he thought they already possessed—namely, their friendship and esteem. (Applause.)

Mr. James Hope Simpson (President of the Liverpool Institute of Bankers) made fitting acknowledgment. He said he felt it was an honour to represent the other guests that evening. Another reason why it was very pleasant to be there that night was because one met with accountants in a non-professional way. (Laughter.) His professional acquaintance with accountants was very largely confined to his auditor. When the auditor came along to his bank a few weeks before his Balance Sheet was struck, then he began to feel his presence. He sent for a member of the staff, and he was told that he was engaged with the auditor; he sent for a book, and he was told that the auditor was using it; and he sent for a parcel of securities, and he was told the auditor was sitting on it. (Laughter.) Then at last the great day arrived when he had to be closeted with the auditor. When the Balance Sheet was signed, and only then, could he go to sleep. (Laughter and Hear, hear.) The profession of the accountant and that of the banker were allied professions. The accountants worked hand in hand with the bankers. Bankers felt that the greatest security they could have was not only their own audit, but the audit of their customers' position. He lost no opportunity of encouraging the accountants' profession by pressing and compelling his customers to get an audited Balance Sheet. (Applause.) It was not that he doubted the customer, and not that he felt there was any great amount of dishonesty—he was much more struck with the amount of honesty in business than he was with

the reverse—but it was because he felt, however honourable a man was, if he was not an expert in accounts it was very wise for him to call in professional advice to keep him right. (Hear, hear.) It was his opinion that when the commercial history of our country came to be written that one of the most remarkable and beneficent instances to be recorded of the Victorian era would be the rise and the rapid growth in influence and power of the accountants' profession. (Applause.) He felt that nothing but good could come of the suggestion of Mr. Peat, the President of the Institute, that the profession should receive the highest legal status in the laws of the country. (Applause.) He hoped that for many years the profession of banking, which he represented, and that of accountancy might be joined together in alliance for the promotion of sound trading, and the development of all that was good in business in this country. (Applause.)

Mr. J. Harrison Jones (President of the Liverpool Timber Trade Association) also replied. He said he desired personally and on behalf of the other visitors to express gratification at being there, and to say how very much they had enjoyed the hospitality extended to them. (Hear, hear.)

Mr. Richard Barrow (Treasurer and Contrôller of Accounts to the Liverpool Corporation) said he was commanded by the courteous Secretary to submit a toast which was not upon the printed toast list. It would be an unpardonable omission if they did not drink to the health of their President, Mr. White. (Applause.) He was very pleased to hear Sir Thomas Hughes refer to the services rendered to the city by members of the Institute of Chartered Accountants. Speaking from the standpoint of an official, he would say that they invited the fullest criticism, and the most careful scrutiny, from those who were appointed to audit their accounts, but he thought he did not ask too much when he asked that the person appointed to discharge that duty should be a person properly qualified. (Applause.) Whilst the members of the profession were always willing to devote a large amount of time to work for the city, he thought the time might have arrived when those services should not be wholly gratuitous. (Hear, hear.) For a great number of years he had had the opportunity of associating with members of the Institute of Chartered Accountants in the conduct of the audit of Municipal Accounts. The services they were called upon to render made a great demand upon their time. He was pleased to have the opportunity on that occasion of acknowledging the services which they had rendered. (Applause.)

The Chairman said he thanked Mr. Barrow for the very cordial way in which he had proposed his health, and the company present most heartily for the manner in which they had accepted the proposal. Mr. Barrow, as a public

official, had spoken very highly and kindly of their profession and the assistance he had received from its members. He (the Chairman) thought the obligation was mutual, for he had never approached Mr. Barrow for information without receiving most kindly and courteous attention, and he was sure that was the experience of every member of their profession. (Applause.) He thought it an honour to be in that position that night, and he thanked the members of the Committee and the members of their Society for coming in such large numbers. It was a great honour to them to have the representatives of so many branches of commerce, of banking, and of law in their midst that night. (Applause.) He concluded by proposing the health of the popular Hon. Secretary of the Liverpool Society, Mr. W. E. Mounsey, and thanking him for the excellent arrangements he had made, not only for their intercourse, but also for their entertainment that night. (Applause.)

Mr. Mounsey, in responding, said he was only too glad to do all he could for the profession. (Hear, hear.)

During the evening a delightful selection of vocal and instrumental items was given by Miss Violet Simpson (mezzo-soprano), Miss Marie Rayner (elocutionist), and Mr. Horace Cropper (violinist), with Mr. Chas. William Black as director.

Factory Accounting as Applied to Machine Shops.—II.

By JOHN WHITMORE.

(From *The Journal of Accountancy*, New York.)

THE organisation of a factory and its system of accounts and records are so closely allied, are so inseparable, that to talk of one is necessarily to talk of the other. It may indeed be said that the system of accounts and records is the fabric of any adequate organisation, the very means by which the factory methods and routine are given definite and concrete shape. Whatever in the factory methods and routine does not find expression in the accounts and records is apt to be of the nature of usage imperfectly defined and not invariably observed. If this practical identity of the Factory Accounts and the factory organisation is borne in mind, it will be easy to realise that the factory accounting will not consist of separate and independent systems for the several departments, as a "Storehouse System," a "Cost Department System," and so on, but of one system that must be co-extensive with the whole of the operations—a system of which all the

parts shall be carefully related to each other and co-ordinated to a single end. In describing such a system, it is necessary to take the features of it up one by one, and at the same time it will be found impossible to dispose of any one feature without considerable reference to others. It may even be that a really exhaustive discussion of any one feature of a perfectly developed system would be found to have included reference to every other feature of it. Relatively, however, to the possibilities of elucidation which exist in connection with the subject of the inter-dependence of the departments of a manufacturing business, and the consequent inter-dependence of all the parts of any working system applied to it, the present discussion must necessarily be rather introductory than exhaustive.

For the purpose of describing a system of Factory Accounts the convenient units are rather the books or other forms or means of record, than divisions of the factory or of the operations. And the most convenient starting point, as it is necessarily the finishing point, is not any one of the factory books or records, but the General Ledger of the commercial accounts, because in this General Ledger the whole of the factory records are synthesized and controlled, it may be roughly said, in two accounts, representing respectively materials provided for the manufacturing purposes, and the manufacturing operations. These accounts may be called Stores Account and Manufacturing Account, and in connection with them it will be convenient to speak of the Stock Account, to which the factory product, credited to the Manufacturing Account, is debited. The Manufacturing Account is, however, a single account ultimately rather than immediately. It is convenient, and it is even necessary, to keep it, in the first place, in somewhat analysed form by means of a number of subsidiary accounts, which are, however, parts of the Manufacturing Account and are finally closed into it. It is not merely convenient, but pertinent, to consider here the finished Stock Account in conjunction with the Stores Account and the Manufacturing Account, because the three accounts together furnish continuous control of all stocks—raw, in process, and finished—from the time of the purchase of the first to the time of the sale of the last. This control is similar to the control over cash which is obtained by means of the Cash Account. In the lectures referred to at the beginning of these articles this parallel between the purpose and the method of the three accounts representing stocks, and the much more familiar Cash Account, was dwelt upon, because it seemed that if the closeness of the parallel was seen, the idea of the three accounts must thereafter be as familiar as the idea of the Cash Account, and the parallel was illustrated as follows:—

GENERAL LEDGER ACCOUNT—

Cash, Stores, Manufacturing, Finished Stock.

SUBSIDIARY BOOKS—

Cash Book, Stores Ledger, Cost Ledger, Stock Ledger.

DEBITS—

Cheques Received, Purchase Invoices, Stores Orders, &c., Stock Debit Notes.

CREDITS—

Cheques Paid, Stores Orders, Stock Debit Notes, Merchandise Orders.

There is a difference in the case of the Manufacturing Account indicated by the "et cetera," because that account is not debited and credited with goods in the same state, and is consequently further debited with all the expense of converting them from one state to another. But throughout this process of conversion from one state to another the accounting control can be made as continuous and effective as that which is exercised in the other cases by means of the other accounts. This is obviously not accomplished by merely keeping a Manufacturing Account and a Cost Ledger, but it is accomplished in the full development of the factory accounting. And in the lectures referred to another distinction was noted for the purpose of bringing out what must be the central idea in factory organisation. The distinction is that cash, and stores, and finished stock, are drawn upon as requirements outside of themselves arise, and that the department represented by the Manufacturing Account delivers its goods when it is itself ready to do so; which may be taken as typical of the fact that because in the final developments of the business every requirement is made of the producing departments, therefore all the organisation is directed to giving the producing departments the utmost facilities in all their working, and in delivering to them everything they need, and in receiving from them when they are ready to deliver. Obviously, then, one of the vital purposes to be accomplished in the factory organisation is to enable the Storehouse to supply the needs of the producing departments, or shops, without any delay that can possibly be guarded against. To this end the Engineering Department, the Purchasing Department, and the Storehouse itself, must contribute by the most systematic and co-ordinated working, and the accounting instrument by which alone the desired result can be accomplished is the Stores Ledger. It is scarcely necessary to add that for the purpose in view the Stores Ledger is elaborated beyond the mere provision for debiting goods received and crediting goods issued. Here is a Stores Ledger form designed to include every precaution against delays in filling the shop requisitions.

[illegible]

The control of the Storehouse is exercised through the Engineering Department, because the Engineering Department alone possesses all the qualifications for exercising such control wisely and to every good result. It possesses the best knowledge of the qualities of materials, the best knowledge of the hazards of breakdowns, and the consequent needs of stocks for repairs, the best knowledge of impending or probable changes in the design or construction of machines, and the best opportunities to adjust designs at times so as to bring into use materials that might otherwise become inactive. Taking the ordinary case of a business making and selling standard and special machines, two kinds of information are necessary in order that the supplies in a storehouse shall be kept adjusted to the shop requirements. The first relates to the general volume and character of the business, and the second to the actual contracts made by the Selling Department. The first concerns materials of various characters and for various purposes. New machine parts which are standard, either because of a practically invariable character for their particular uses, or because of special standardisation making these parts uniform in machines that may otherwise vary, are made more conveniently and cheaply in quantities for stock, and if the quantities are carefully judged a minimum cost is obtained, with little risk of an offsetting loss through any part of such stock becoming inactive. Then, with a given quantity of the product of the shops sold and in use and subject to wear and tear, there will have come into existence certain current needs of parts for repair purposes. Again, there are supplies of standard materials in their first state—that is, as they are purchased—each having a certain average consumption established. For all these classes of storehouse materials, and for all ordinary machine shop supplies, whether purchased or manufactured for store, the general conditions of the business furnish guidance in the maintenance of stocks, and the resulting decisions and instructions are expressed in stock limits, the quantities below which the stocks must not fall, and standard orders, being the standard quantities to requisition when the stock limits are reached, and these stock limits and standard orders are fixed by the Engineering Department, and it is the duty of the storehouse to continually scrutinise them in the light of its records, and to ask for revision in every case where it seems necessary.

The soundness of the figures of the stock limits and standard orders is a matter of very great importance, and it can only be attained by perfecting the influence of the Engineering Department over the Storehouse, and by establishing the closest touch between them. In large businesses with a product of complex or varied character, and consequently with operations and stocks requiring the most careful and systematic control, it is advisable for

the Engineering Department to have a card index corresponding to the titles of the accounts in the Storehouse Ledgers, and marked with the stock limit and standard order figures, so that as the Engineering Department develops new plans, or notes new tendencies in the sales contracts, they can, with facility, inform themselves exactly concerning stocks of materials carried under existing instructions, and give new instructions without waiting for a disparity between stocks and shop needs to become evident in the Storehouse. For two reasons especially the highest efficiency of the factory organisation as it relates to the Storehouse Department is of vital importance. The first is that the economical operation of the shops depends for one thing upon the storehouse filling all stores orders immediately they are presented. The second is that the requisitions it must issue are the basis of large expenditures. The stock limits and standard orders, if they are made to express the latest knowledge and the most careful judgment of the Engineering Department, and are continually criticised in the light of the experience of actual consumption recorded in the Stores Ledgers, are an important safeguard in relation to both these matters. The next precaution is that all storehouse requisitions shall go through the Engineering Department for approval before they are effective in the Purchasing Department, or as a basis for shop orders to produce for the Storehouse. This gives the control of the Engineering Department over the Storehouse the twofold operation that efficient control must have: first, through the freedom to exercise itself at such times and in such places as current conditions in its judgment call for; and, second, through a routine that brings the things done or proposed to be done systematically under review. The precautions in regard to expenditures under storehouse requisitions are not completed by the Engineering Department approval. Well understood responsibilities for expenditure rest upon the Purchasing Department, which must call attention to any commercial conditions on account of which requisitions should in its opinion be modified.

Having provided for the maintenance of stocks in accordance with the general character and volume of the business, the next thing is to make particular provision for actual sales contracts, and it is to serve this purpose that the next special features of the Stores Ledger form are provided. If finished apparatus is to be manufactured for stock, the decision to manufacture is, as far as the storehouse and shops are concerned, exactly equivalent to sales contracts for such apparatus, as they will be delivered to the Finished Stock Department exactly as they would in the other case be delivered to the Shipping Department, and are quite probably manufactured in anticipation that they may be sold by the time the shops can finish them. If the storehouse is to foresee and pro-

vide for the shop needs, it is plain that it must be promptly advised of all undertakings to build and deliver the machines which are the shop product. Lists of the materials entering into standard machines should be in the possession of the Storehouse, so that when the Storehouse is advised what standard machines it has been contracted to produce, it knows what materials the shop will sooner or later call for in respect of such contracts. In the case of machines which are not standard machines, there are special designs, and drawings, and lists of materials, and these special lists of materials have to be furnished to the Storehouse with the advice of such a contract. This is to say, the Storehouse is advised as soon as possible of all machines that the shops have got to produce, and the Storehouse either has or is furnished with information concerning everything which enters into those machines, and which the shops will in due time call upon the Storehouse to furnish to them. Undertakings to build machines, whether for sales contracts or for stock, should immediately be given a shop order number, and this number is a part of the advice sent to the Storehouse. The lists of materials are then posted to the Stores Ledger Accounts under the general heading "Wanted" and the sub-heading "Lists of Materials—Shop Order—Quantity." This entry affects the relation of the actual stock to the stock limit, inasmuch as certain materials are thereby practically assigned to a certain shop order and no longer form part of the free balance. This may or may not result in the issue of a requisition. If it does, an entry of the date and quantity is made under the general heading "Ordered" and the sub-heading "Requisition."

It may, of course, happen, in spite of the best efforts, that stores orders will yet be presented for some of these materials before the Storehouse is ready to deliver them. In such a case the stores order is entered under the general heading "Wanted" and sub-heading "Stores Orders—Shop Order—Quantity." The shop order number identifies the want as the same one previously entered, but neither entry is superfluous. The first one may, either immediately or later, have shown the necessity of issuing a requisition, and the second makes the important record that the shops are actually waiting for the materials, and immediately they are received the clerk entering the debit advises the proper person that such stores orders can now be filled. Such proper person is, of course, whoever in the Storehouse has charge of unfilled stores orders. The provision for entering under "Delivered" the shop order number for which the delivery is made, is to enable one to see whether stores orders entered under the heading "Wanted" have subsequently been filled. So the actual stocks and all known wants—standard, immediate, and future—are recorded. It remains to complete the record as to incoming supplies.

Mention has been made of the entry in the Stores Ledger Account of requisitions issued. Such requisitions may be the basis of orders issued by the Purchasing Department, or of orders to the shops to manufacture for the Storehouse. It is not sufficient for the Storehouse to know that it has issued a requisition. It needs to know always whether the deliveries on it are complete, and for this purpose it is convenient to know the number of the purchase or shop order issued. Moreover, the latter may not always be exactly in accordance with the requisition. This part of the Storehouse record is put on a sound basis if the Storehouse is either given access to records of both purchase orders and shop orders for storehouse, or is furnished with a carbon copy of these orders, entering then this order number under the general heading "Ordered" and the sub-heading "Order—Quantity." Then every invoice of materials purchased and every debit note for goods made by the shops for the Storehouse should bear the number of purchase order or shop order, and this number is part of the posting to the debit side of the Stores Ledger Account. Now the Stores Ledger Account shows not only the actual stock, and all known wants, but also the exact condition of outstanding requisitions and purchase or shop orders. Of course, under the heading "Ordered" far from every line is used, and so, without providing more columns, there is plenty of room to note anything of importance, especially date when delivery is promised or expected. Careful watch should be kept by the Stores Ledger keepers for overdue materials, and a regular form used to request the Purchasing Department to trace. It is a natural question how much clerical help it takes to effectively maintain such records. One answer is impossible, for only experience can in any given case show. But some pertinent considerations are worth dwelling upon.

First, experience will in any given case show, because the work is visible. It is the work of clerks manifestly engaged in doing it. It is not the irregular work of a lot of worried people in various departments, needing to know continually about materials for different purposes, and making inquiries and search in various quarters, and then perhaps failing to get accurate information. The systematic record increases the visible labour in connection with the materials item, but it is not equally certain that it increases the actual labour, or the immediate expense of it. Beyond the immediate expense there is the result. To perfectly supply the shop needs without carrying excessive stocks of materials is a condition to be striven for and never perfectly attained. Every step by which one comes nearer to it is a step nearer to the full utilisation of the shop capacity, and makes simpler all the broad problems of shop and business management. To sacrifice even a very little here to save a good deal of

clerical work is a doubtful economy, and that the sacrifice in the shop working is small and the offsetting economy large are two things it is very difficult to be sure of. There remain to be noted other ways in which the Storehouse organisation and records can be made helpful in securing final economy in production, and then there remain to be described the methods by which agreement between the General Ledger Stores Account and the Stores Ledgers, and the actual stocks in the Storehouse, is maintained. Finally, there will be noted the facilities furnished by the accounts and records for the control of the general management over all the departments concerned.

The rule that the Storehouse issues requisitions for materials as stocks reach or approach the stock limit fixed by the Engineering Department may be given a little elasticity. There are groups of materials that it is advantageous to order together whether they are to be purchased or to be produced in the shops. It is desirable that, as occasion arises to order a stock of one of the articles in such a group, reference to the accounts for the other articles in the same group shall be easily made, to see whether some of these are also at a point justifying the placing of an order. This is one consideration that should influence the sequence of the accounts in the Stores Ledgers. Reference may here be made to another possible use of the Stores Ledgers with their fullness of record. Some systematic index might be made of stock articles produced on the different machines respectively, so that in the case of a certain plant being idle it might be promptly and definitely and exhaustively ascertained whether any stock articles the production of which would employ such idle plant were at a point at which reordering for stock would, under the circumstances, be justified. If it is thought that there might be a dangerous tendency in this, it must be remembered that such reordering would be accomplished by means of a Storehouse requisition approved by the Engineering Department, which is a very different thing from letting the shops decide to make a good showing at the risk of over-production. The Storehouse receives goods from concerns bought from, and from the shops. In the former case it has Purchase Invoices, in the latter Stores Debit Notes. After certifying the receipt of the goods on these documents, postings are made from them to the Stores Ledger Accounts, and such postings are plainly signified on the documents. The latter is important, as this posting mark should always be seen at the time the Purchase Invoices or Stores Debit Notes are entered in Journal or Summary Sheet, from which the monthly posting of totals is made to the Stores Account in the General Ledger. By these means any omission to post a debit to a Stores Ledger Account will be detected. Each department of the shops that may receive from and deliver to the Storehouse has its own series of Stores

Orders and its own series of Stores Debit Notes. The Storehouse neither delivers to the shops nor receives from them except by means of one of these. Each series of Stores Orders and each series of Stores Debit Notes is consecutively numbered by the printer. Stores Debit Notes are entered in the Stores Ledger Accounts immediately they and the goods represented by them are received in the Storehouse, but this entry is necessarily without price and extension. They are then sent to the cost clerks, who price and extend and post in the Cost Ledgers, and return to the Storehouse for completion of the postings there.

A Monthly Summary Sheet is kept for each series of Stores Orders and each series of Stores Debit Notes, and on each Summary Sheet the original numerical order is retained, to show if any documents are unaccounted for. Stores orders which have been presented, and which the Storehouse has not been able to fill on presentation, and which go over the end of a month unfilled, will naturally be missing numbers in the monthly Summary Sheet and must go over to the next month's sheet. An important test of efficiency in the Storehouse is its ability to fill the Stores Orders promptly, and here is a simple means of seeing each month how many orders are, at a given point of time, waiting to be filled. If the management will take these up each month, and learn why the delays have occurred, another strong influence will be at work to secure the important end that the productive operations shall be facilitated to the fullest extent by the Storehouse furnishing materials as they are needed.

Now there is made possible a new method in place of the old periodical inventory takings. Stocks of materials are now managed by means of the Stores Ledger records, and it is very important that there should be no doubt of the accuracy of these records. When a Stores Ledger Account shows the stock of a certain material low, an additional safeguard is created if, before ordering more, the actual stock is counted and the Ledger figure verified. The Ledger balance being verified, it is brought down in the account as a verified balance, and this goes on from day to day throughout the year. The inventory, as stated in the Stores Ledgers, is always in process of verification, and the work of verification is reduced to a minimum by taking each stock when it is at its lowest point, and the work is spread out pretty evenly through the year, instead of the whole thing being attempted as at a single date, usually with great inconvenience, and usually with inaccurate results. Of course, actual counts do not always agree exactly with Ledger figures, and then an adjustment is necessary. It is well to provide the Storehouse with its own series of Stores Debit and Credit Notes, by means of which adjustments of either quantities or valuations may be recorded. The necessity to adjust valuations arises when any stores are found to be inactive and consequently

of decreased value, a matter that has to be dealt with especially at Balance Sheet dates. These Debit and Credit Notes must be summarised on a Monthly Sheet, from which the entry in the General Ledger Stores Account and the corresponding entry in the General Ledger Stores Adjustment Account will be posted. It would indeed be well to keep two Stores Adjustment Accounts in the General Ledger, one for adjustments in respect of quantities and one for adjustments in respect of values, for the adjustments in respect of quantities are a test of the efficiency of the control exercised by the Storehouse over the stocks of materials in its charge, and the adjustments in respect of values are a test of the judgment and care with which the Engineering Department guards against inactive stocks.

If Storehouse Accounts kept in the fashion described are audited at the close of a year, the auditors can see when each account was last verified, and they can call for the verification of accounts with stocks where it seems desirable to do so, either because the value represented is large, or because the latest verification is of too remote a date. They can draw off a statement from the Ledgers of all inactive items and ascertain their total, and inquire in detail concerning their valuation. They have means of judging of the accuracy and soundness, from all points of view, of the inventory statement furnished by the Ledgers, and they come into a position where they can certify to its practical accuracy, or point out clearly the weaknesses in the records which need to be remedied. Later on it will be seen how the Cost Ledgers furnish an inventory of everything in process as excellent, both as to simplicity and as to accuracy, as the materials inventory furnished by the Stores Ledgers. The auditor's list of inactive materials should be used to the fullest possible extent for the purpose of moving such materials—that is to say, the list must go to every department that may be able to contribute directly or indirectly to this end, especially the Engineering Department, the Sales Department, and the management. In all factory accounting it is necessary to adhere to principles and to keep one's methods flexible. One must be prepared always to adjust methods of recording so that these methods will follow the proper and necessary course of the operations. It has been described how, in order to obtain materials from the Storehouse, the shops make out Stores Orders, and how these being filled are priced and extended and entered in the Stores Ledgers. There are, however, instances in which it is not convenient or economical to separate the exact quantity of material required, even if the exact quantity were known. In such cases materials may be issued on a memorandum, which is priced and extended and posted in the Stores Ledgers to the credit of the Material Accounts and to the debit of a special account opened for the temporary pur-

pose. Such materials are afterwards accounted for by a Stores Order for what has been used, and the return to store of the unused balance.

A question commonly arises as to how, under certain circumstances, issues of materials ought to be priced. The stock of any material at any time may consist of two or more purchases. Sometimes the several purchases are at rather widely differing prices. Even if the article is one that is produced in the shops, the successive cost figures may not be the same. It is probably the best rule that, whatever the conditions, issues of materials are best priced at the average cost of the existing stock—that is, the money balance of the account divided by the quantity balance. This figure, once determined, is in force until a new purchase, or production, is made at a cost different from the average figure being used, and to any methods described here or anywhere else there must be added whatever experience suggests as calculated to contribute to the end that stocks of materials shall be such active necessary stocks as will promptly meet all shop needs.

Meetings for the ensuing Week.

Tuesday—INSTITUTE OF CHARTERED ACCOUNTANTS.—General Purposes Committee, at 3 p.m.; Final Examination, 10.30-1.30, 2.30-4.30.

Wednesday—INSTITUTE OF CHARTERED ACCOUNTANTS.—Final Examination, 10.30-1.30, 2.30-4.30.

SHEFFIELD CHARTERED ACCOUNTANTS STUDENTS' SOCIETY.—Lecture, "Further Notes on the Criticism of Accounts," by Mr. W. R. Hamilton, F.C.A., at the Library, Hoole's Chambers, Bank Street; 6.45 p.m.

Thursday—INSTITUTE OF CHARTERED ACCOUNTANTS.—Final Examination, 11-1, 2-4.

LEEDS AND DISTRICT CHARTERED ACCOUNTANTS STUDENTS' ASSOCIATION.—Lecture, "The Preparation of Accountants' Certificates for purposes of Joint Stock Company Flotations," by Mr. A. F. Dodd, F.C.A., at the Law Institution, Albion Place; 6.30 p.m.

GLASGOW CHARTERED ACCOUNTANTS STUDENTS' SOCIETY.—Lecturettes, "Hire-Purchase Accounts," by Mr. J. H. Fraser, C.A.; "The Accountant in the East," by Mr. J. M. Hart, C.A. by Google

Personal.

MESSRS. BOLTON, WAWN & Co. have removed from Maritime Buildings, St. Thomas Street, Sunderland, to 48 West Sunnyside, Sunderland.

MESSRS. DELOITTE, PLENDER, GRIFFITHS & Co., Chartered Accountants, of 5 London Wall Buildings, Finsbury Circus, London, E.C., announce that they have opened an office at No. 522 La Mutua, Mexico City, which will be under the resident management of Mr. VIVIAN HARCOURT, a partner in their New York house.

WE observe that the name of Mr. GEORGE GRAHAM POPPLETON, C.A., C.C., member of the firm of POPPLETON & APPLEBY, Birmingham, London, and Sheffield, has been added to the Commission of the Peace for the County of Worcestershire.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, Nov. 16th, was 178, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 101; Deeds of Arrangement registered, 77. The respective numbers in the corresponding week of last year were: Bankruptcies, 116; Deeds of Arrangement, 94—total, 210; being a decrease of 32. The total number of commercial failures recorded during the 46 weeks of the present year is 7,407; the total number recorded in the corresponding 46 weeks of last year was 7,950, showing a decrease of 543.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, Nov. 16th, was 139. The number in the corresponding week of last year was 147, showing a decrease of 8. The total number filed during the 46 weeks of the present year is 6,737; the total number filed in the corresponding 46 weeks of last year was 7,420, showing a decrease of 683.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending

Friday, Nov. 16th, amounted to £833,182, by way of addition to £1,616,811, previously issued by the same companies. The amount registered in the corresponding week of last year was £835,865, showing a decrease of £2,683. The total amount registered during the 46 weeks of the present year was £70,138,336, (in addition to the issues in previous years by the same companies), as compared with £66,714,758 for the corresponding 46 weeks in 1905, showing an increase of £3,423,578.

Bank Rate of Discount.

April 5th 1906	..	..	..	..	..	..	3½%
May 4th ..	..	..	..	..	..	..	4%
June 21st ..	..	..	..	..	..	..	3½%
Sept. 13th ..	..	..	..	..	..	..	4%
Oct. 11th ..	..	..	..	..	..	..	5%
Oct. 19th ..	..	..	..	..	..	..	6%

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The Accountant

THE RECOGNISED WEEKLY ORGAN OF CHARTERED ACCOUNTANTS

AND

ACCOUNTANCY THROUGHOUT THE WORLD.

VOL. XXXV.—NEW SERIES.—No. 1669.] SATURDAY, DECEMBER 1, 1906. [PRICE 6d.

Extract from *Auditing*, by LAWRENCE R. DICKSEE, F.C.A.
(Page 190)

Licensed Houses present some rather special features. The goodwill attaching to the license gives the lease or freehold of licensed premises a market value greatly in excess of their real value as buildings. To be properly considered, the value of the premises and the license must be separated. The former should be depreciated in the usual way, leaving the license alone to be considered. A license on freehold premises does not depreciate, but a license on leasehold premises passes away with the premises and must therefore be depreciated like a lease. A license may at any time be lost—either for misconduct or for no reason—but this is a contingency outside the scope of depreciation. It may, however, be provided against by Insurance, which would appear to be a most prudent course to adopt.

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Leading Articles.

War Office Reform.

WE have said but little in these columns concerning the reflections that naturally occur to one as a result of the Report of the Royal Commission charged with the investigation of the Stores scandals at the conclusion of the war in South Africa, because little (if any) practical advantage is to be gained by purely destructive criticism. The one tangible

advantage that appeared likely to accrue from this protracted and expensive inquiry was that it might lead to some radical alteration of the existing system, which would render any recurrence of such deplorable blunders absolutely impossible, and upon that subject it was obviously desirable to await the announcements of the Government before passing comment.

To some extent at least the War Minister has grappled with the problem thus disclosed, and has made some preliminary announcement as to the means by which he proposes to prevent its recurrence. It is frankly admitted that the disastrous position of affairs disclosed by the Royal Commission's inquiries was in no small measure, if not entirely, due to the fact that military officers who had had no business training, and were not business men, were pitted against doubtless some of the sharpest business men in the world, and seriously expected to keep their hand up and to make good bargains for their country. They were also expected, without any previous training, and practically at a moment's notice, to create and carry on an organisation of a magnitude far exceeding that of almost any existing civil business, and to conduct it, if not to the best possible advantage, at least with sufficient ability to avoid serious leakages as the result of fraud, carelessness, or inexperience.

When the problem is so stated it must, we think, be admitted that there was a very great deal to be said in the defence of individuals who undoubtedly did their best against enormous odds, but whose best was very far from being good enough. Thus, when those whose conduct was reprehensible had been sifted out from those whose misfortune it was that they had failed to rise to the level of achieving the

impossible with the most unpromising material, Mr. HALDANE and his advisers set seriously to work to consider how they could so manage things that the outbreak of another war would not find the army similarly unprepared with any business organisation capable of dealing adequately with the business or administrative side of a campaign.

There were, roughly speaking, three possible courses, the first that of putting out the whole administrative side of the work to contract—which was, and might well be, dismissed as soon as formulated, in that an army that was dependent upon contractors would find it practically impossible to get its contracts undertaken at an adequate price when the emergency suddenly arose, and would be entirely without means of protecting itself against the failure, fraud, or even treachery of such contractors. The second alternative would be to recruit an administrative staff from business men. This scheme, while undoubtedly more practicable, appears to have been dismissed; and upon the whole we think wisely so, in that, even assuming that business men of the necessary capacity could be obtained at anything approaching a reasonable cost—which we somewhat doubt—the conditions are such that, once appointed, their faculties would rust in times of peace to such an extent as to render it doubtful whether, when the emergency arose, their capacity would be found to be greatly superior to that of the military men. The third (and only possible) alternative is that which has been adopted by the War Office, of initiating measures for the effective business training of a limited number of selected officers to qualify them for the higher appointments on the administrative staff of the army, and for the charge of the departmental services. That is to

say, a selected number of the most promising officers who have developed promise of administrative capacity are to be given opportunities of really learning something about business, in the hope that they may apply the knowledge thus acquired to the peculiar problems that necessarily obtain in connection with army matters and thus evolve a system which, in addition to being academically adequate, may reasonably be expected to possess the even more important advantage of being adapted to the practical requirements of the situation.

The details of this scheme are to be worked out by a consultative Committee appointed by the Secretary of State for War, consisting of the Permanent Under-Secretary of State for War, the Director of Supplies, the Director of Staff Duties, and the Director of Recruiting Organisation, as representing the military side; three well-known business men connected respectively with shipping, railways, and finance, whose practical experience will be invaluable, and whose appointment on the Committee will be a guarantee to the public that the matter will be seriously grappled with upon business lines; and the Chairman and Director of the London School of Economics, who are associated with the Committee doubtless chiefly as education experts. Further announcement will be made in due course of the detailed arrangements which the Secretary of State may, after consultation with the Committee, approve. These detailed arrangements will be awaited doubtless with patience, but also with very considerable interest, for upon them must in no small degree depend the success of a scheme which in principle appears to be most promising. The military members of the Committee will, or at least should, know in full detail the nature of the

peculiar problems that have to be faced. The business members will be able to decide as to the best practical means of dealing with these problems and the sort of knowledge that is most likely to prove useful as laying the foundations of that business education which will enable the men of ability to deal not merely successfully, but also instantly, with unexpected variations of circumstances, and other similar difficulties which must always be expected although they cannot always be foreseen. The educational members, representing as they do the heads of that department of the University of London which has alone so far really seriously devoted itself to commercial education, will doubtless be able to give the best possible advice on questions of detail as to the precise subjects to be included in the curriculum, and the best methods of imparting them. In the nature of things nothing already in existence would appear to be precisely suitable for what is required, but the experience of the past, even if it be upon somewhat different lines, can hardly be altogether valueless. Still, as we have already stated, it is the further announcement as to the detailed arrangements that will be awaited with the greatest interest, in that it is upon these that the ultimate success or failure of the scheme would appear to be chiefly dependent.

There is, however, another aspect of the matter that must certainly not be overlooked, or the most carefully laid plans will probably go far astray. The essence of the success of every form of instruction lies in an earnest, and one might even say an enthusiastic desire on the part of the learners to be instructed. It thus follows that the reception afforded to this scheme by army officers themselves is by no means the least important factor

in its ultimate result. If they really appreciate their shortcomings in the past, and are really bent upon doing their best to take advantage of the opportunities now to be afforded, much may be hoped for even in spite of such false steps as are almost inseparable from the start of any new movement. If, on the other hand, they regard the course as merely a new form of wearisome drill, to be slacked through and shirked in every possible way, then, of course, the movement is foredoomed to failure. We trust, therefore, that the prizes offered to those who go through the course with credit, and show signs of marked ability, will prove sufficiently attractive to ensure the matter being approached in the right spirit, and limited to those who are seriously desirous of getting the utmost possible good out of the instruction about to be provided, whatever the precise form of that instruction may eventually be.

The Treatment of Partnership Articles.

WE are interested to observe that *The Solicitors' Journal* of the 24th ult. contained a letter from Mr. CYRIL COX, A.C.A., as follows:—

SIR,—Will you allow a younger member of the accountancy profession to suggest that the forms used by solicitors in drawing up articles of partnership are in need of revision so far as they relate to matters of account?

In the articles of partnership which have come under my notice, I have found clauses which may fairly be described as ambiguous; and in other cases I have found that the provisions made in the deed have been insufficient to meet certain contingencies which have arisen. This applies more especially to the subjects of capital and drawings and the interest thereon. The clause which usually provides for an annual stocktaking and preparation of accounts speaks of a "general account of all the incomings, outgoings, stock-in-trade, credits, property, and effects, debts, and liabilities." I very much doubt whether it would be

possible to prepare such an account, but even if it were possible, I am quite sure that nobody would be able to understand it.

In the interests of both professions revision of the forms is needed.

If the Law Society were to take the matter up officially, I feel confident that the Council of the Institute of Chartered Accountants would be very willing to assist with suggestions and advice.

CYRIL COX.

This letter may, we think, safely be assumed as throwing some light upon the correspondent who, under the initials "C. X.," contributed to our columns on the 10th and 24th ult. upon the subject of "Partners' Capital Accounts," concerning which an article appeared in our issue of the 17th ult. There can be no doubt that few matters are of more importance in connection with partnerships than the preparation of articles dealing fairly and sufficiently comprehensively with all the various points and differences that are at all likely to arise in practice, for nothing is so productive of bad feeling and disputes as a conviction that one or another of the parties concerned has been unfairly treated. There is little doubt that partnership articles, as commonly drawn, not infrequently produce that result, while the position is certainly not likely to be improved by the almost studious disregard of written conditions that obtains between most partners so long as everything is going on all right and the relations between the partners are entirely friendly.

For all practical purposes the present position of affairs has remained unchanged since the 1st January 1891, when the Partnership Act, 1890, came into operation; and in the year 1892 (*Accountant* XVIII., pp. 649 and 661) we produced a couple of editorials on Articles of Partnership, which were intended to show the inadequacy

of what may be regarded as the common form of articles usually employed by solicitors, and the great desirability that so important an agreement as an agreement for partnership should not be undertaken without first giving much more careful and more businesslike consideration to the problems involved, or likely to be involved, than was usually done. Mr. CYRIL COX has now revived this question, and it is certainly as much in need of discussion now as in the early days of the operation of the 1890 Act.

It was, no doubt, a perfectly safe thing for Mr. COX to say in his letter to *The Solicitors' Journal* that the Council of the Institute would be willing to confer on this matter with the Council of the Law Society, but as a private member it is not possible for him to give any such assurance as would be likely in practice to lead to the Law Society approaching our Institute with an application for a conference. Perhaps, however, a member of the Council will take the matter up, and in the meantime a discussion of the subject in these columns and in the columns of our contemporary will help the matter on. Accordingly, we shall be pleased to hear what any of our readers may have to say with regard to the matter; and we need hardly add that the opinions of lawyers will be at least as much appreciated, and will doubtless help to make the discussion more useful from every point of view.

Weekly Notes.

Floating Charges and Equitable Mortgages.

Note should be made of the case *Re Standard Rotary Machine Company, Lim.*, where it was held, following *Re Valletort Sanitary Steam Laundry Company, Lim.*, that where investments had been deposited with a bank as

security for an overdraft, and debentures having a floating charge existed, the bank, although having notice of the existence of the debentures, since they were registered, were not bound to inquire whether there was any clause restricting the company from dealing with the assets as against the debenture-holders. The bank succeeded in establishing their claim that they were entitled to be registered as owners of the shares.

Directors and the Issue of Proxies. Note should be made of the decision of the Court of Appeal in the case of *Peel and others v. The London and North Western Railway Company*, for although the special circumstances under which the proxies were issued must not be overlooked, the case of *Studdert v. Grosvenor* is now practically overruled. Mr. Palmer has rightly pointed out that directors are the agents of the company, and it is their duty to warn shareholders against objectionable schemes. The question out of which this case arose has been much commented upon, and we, therefore, need not dilate upon it. The principal point to be observed is that this case was no doubt decided entirely on its own merits, and that under different circumstances, where the directors were not acting in the interests of the company, but in the interests of themselves, the result might have been very different.

A New Railway Commissioner. The office of Railway Commissioner, rendered vacant by the death of Sir Frederick Peel, has been filled by the appointment of Sir James Woodhouse, M.P. This appointment will cause, in addition to the parliamentary representation of Huddersfield, a vacancy on the boards of the following, among other, companies:—National Telephone Company, Hull and Barnsley Railway, London City and Midland Bank, Law Debenture Corporation, Earl's Shipbuilding and Engineering Company.

Interest on Capital during Construction. Indicative of dearer money is the question asked in the House of Commons last week by Mr. Hyde, who

inquired of the President of the Board of Trade whether, in view of the approaching time for the deposit of Railway Bills, he was in a position to say whether an alteration of Standing Order 167, Subsection 1, could be proposed, so as to permit the payment of interest by railway companies out of capital during construction at the rate of not exceeding 4 per cent. in lieu of the

present rate of not exceeding 3 per cent. Mr. Lloyd George was understood to say that he was in favour of the proposed alteration, but, having regard to the state of public business, he was doubtful whether a fitting opportunity could be found for a discussion of the proposal during the present session. He pointed out that promoters of railway bills for next session would not be justified in anticipating the decision of either house on the proposal.

A Point in Bankruptcy.

In the case of *Re Tyler; ex parte the Official Receiver*, the facts were rather uncommon. In December 1895 A., being pressed for money, asked his wife to pay the premiums on his life policies and interest on a mortgage secured by these policies which were then due. In 1896 (August) A. was adjudicated bankrupt, but his wife continued the payments mentioned until his death in 1906. The trustee in the bankruptcy knew nothing of the payments and had obtained his release. A.'s widow claimed the amount paid by her, and it was held that although she had no legal or equitable right to be recouped it was only just that the amount should be refunded, and the Official Receiver was ordered to repay the widow the amount she had expended.

Bankruptcy Discharge Suspensions.

At the Blackburn County Court recently, Judge Hamilton suspended the discharge of a bankrupt solicitor for five years for culpable negligence in allowing a Southport practice to be carried on in his name by his uncle without supervision. The uncle is reported to have been guilty of misappropriating clients' moneys, for which offence he was sentenced to a term of imprisonment.

Sinking Funds and Depreciation. During the progress of the "audit" (L.G.B. variety) of the accounts of the Southwark Borough Council last week, a councillor is said to have objected that no Depreciation Fund existed in connection with the electric lighting undertaking. Mr. Carson Roberts' reply is reported to have been to the following effect:—

"It was quite true there was no fund called a Depreciation Fund, but to say that nothing of the kind existed was perfectly absurd. By the annual repayments of principal such an undertaking had what was much bigger—a Sinking Fund, which was a Depreciation Fund, plus something else.

He strongly urged the objectors to take particular notice of that point, and went on to add that it had

been said municipal undertakings were not managed on business lines. To make such an assertion in general terms was very wrong. There might be solitary departures from commercial methods, but in general municipal undertakings were conducted on sound business lines."

The Municipal Journal says:—

"This valuable testimony comes from a gentleman whose practical acquaintance with the bookkeeping of local authorities is unsurpassed throughout the kingdom."

We do not know whether Mr. Carson Roberts has been fully and correctly reported, but if the above paragraphs are true in substance, then we may, perhaps, be permitted to point out that the permutation of a Sinking Fund so as to constitute the resultant balance a Depreciation "Fund" (or, as may be preferably stated, render that balance available for depreciation reserves) only takes place when that Sinking Fund has been created out of profits. In this connection there has also to be borne in mind, when thinking of the permuted character of such a fund, the fact that the repayments of principal may be spread over so long a period that the assets have suffered depreciation to extinction.

The Fiduciary Capacity of Directors.

It is suggested in *The Financial News* that meetings of shareholders in limited companies should be held every six months "to receive a statement about their business," independently, of course, of the "fully-audited accounts" which would be presented each year. The point arises out of the "startling transformations" shown in the Balance Sheets of one or two industrial companies recently. In one instance the profits rose from £18,164 to £176,232, and in another from £6,538 to £106,558, with something like corresponding increases in the share quotations which, it is said, must have provided golden opportunities to those acquainted with the improving condition of affairs. There is, of course, a danger in this direction, but directors as a body can usually be relied upon to deal honestly with the point. If our contemporary's suggestion could be practically applied to industrial concerns it would be a great advantage nevertheless. Unfortunately, mining concerns are not quite on the same plane as industrial ventures, so that there might not be an altogether unanimous opinion, even among expert accountants, as to what is precisely meant by a "statement about their business."

**Greater
New York
Corporation
Accounts.**

The letter from our correspondent "A Financial Officer," which appeared in our last issue, draws attention to a deplorable state of affairs which indicates in no uncertain terms that municipal accountancy in the States is, if possible, in an even greater muddle than in this country. It would, however, be altogether a mistake to regard this circumstance as a reason for congratulation as to the manner in which the accounts of local authorities are kept, and the principles upon which they are founded, upon this side of the water. It is no doubt true, and has no doubt always been true, that in New York the ratepayers have been consistently fleeced by incapacity as well as by corruption. This reflection conveys no very special consolation to the British ratepayers, who, while feeling assured that corruption is practically non-existent here, may rest assured that on the question of incapacity there is really not much to choose between the two countries.

**Director's
Qualification.**

The question asked by our correspondent "Verify" last week is one of the somewhat numerous ones that are addressed to us from time to time which it is absolutely impossible for us to answer from the data given. The full text of the clause in the articles of association relating to the director's qualification must be given before it is possible for our legal contributor, or anyone else, to express any opinion whatever upon the case

Certified Profits.

In reply to our correspondent "Enquirer"—whose letter under the above heading we reproduced last week—while it is no doubt desirable, whenever possible, that an accountant's certificate for inclusion in a company prospectus should deal with profits upon the lines of profits actually available for distribution, if there is any difficulty in determining the proper charge for depreciation, there can, we think, be no possible objection to the item being omitted, provided the accountant's certificate clearly states that the profits certified by him are subject to depreciation. With regard to the question of an accountant's liability for the contents of his certificate, we believe we are right in stating that, as a matter of strict law, the certifying accountant is only liable to his client, and not to the new company or to any of its shareholders. This, however, for obvious reasons, should not be allowed to affect his attitude.

**The Income Tax
Committee.**

It is understood that the Income Tax Committee has agreed upon the basis of its report on the lines of a draft prepared by Sir T. P. Whittaker, which is to the effect that, so far as administrative machinery is concerned, there need be no insuperable difficulty in the way of graduation upon unearned incomes up to one thousand pounds per annum, or upon earned incomes up to three thousand pounds per annum, but that no recommendation will be made with regard to a sur-tax upon larger incomes. Of course, it must not be overlooked that any extension of the existing scale of abatements can only have the effect of increasing, or at least retarding, the reduction of the present rate of income-tax, and of causing a very substantial proportion of the national revenue to be provided by an even smaller minority of the community than heretofore.

**The
East Ham Secret
Trust Fund.**

In the Bow County Court last week his Honour Judge Smyley gave judgment in the claim of Mr. Plant, ex-Borough Treasurer, against the East Ham Borough Council for services rendered in connection with a Secret Trust Fund formed by the Council. The plaintiff claimed one hundred pounds for expenses and services rendered in connection with attending before the District Auditor and a Special Committee. His Honour held, however, that the attendances before the auditor could not be charged for, and that, so far as the attendances before the Committee were concerned, the plaintiff attended as a person deeply interested in the charges that had been brought before the auditor, and also to gain information for the purpose of fighting certain newspapers against which he was bringing an action. He accordingly decided in favour of the defendant Council.

**Municipal
Electricity
Accounts.**

The Finance Committee of the London County Council has reported in favour of a reduction of the term for which loans are granted to Metropolitan Borough Councils for electricity purposes. Hitherto all the Borough Councils, except Battersea, have borrowed for electricity purposes on a 42 years' term; and, so far, we believe Hampstead is the only borough that has voluntarily agreed to reduce the term to 25 years as from the date of the original borrowing. It is now proposed, with the approval of the Treasury, that for the future electric lighting loans to Borough Councils shall be granted for the following periods:—

Freehold Land	...	...	60 years
Buildings	...	...	50 "
Mains	...	...	30 "
Plant	...	...	20 "
House connections	...	...	12 "
Meters	...	...	10 "

The proposition, while undoubtedly a step in the right direction, must be regarded as an admission that the uniform period of 42 years previously allowed is now, as a result of more mature experience, regarded as quite inappropriate; and, that being so, it seems to us that the question as to the existing loans ought not to be left in the present admittedly unsatisfactory position. With a 42 years' loan period, and no additional provision for depreciation, it is incontestable that the cost of renewals will after (say) the first ten years cause a very appreciable addition to the rates, which might have been to a large extent avoided had the problem been more intelligently faced in the first instance. We have no desire whatever to appear to throw cold water upon even a belated appreciation by the County Council of its responsibilities in the matter, but now that practically every Borough Council has its electric light works, there is not much good making new regulations unless they are to be retrospective, and unless the greatest possible care be taken to guard against additional loans being authorised for renewals before the redemption of the original loan has been provided for.

Suspension of Articles. With further reference to the letter signed "Fairplay," which we reproduced in our Correspondence columns last week, while we cannot, of course, profess to adjudicate upon any dispute on a mere *ex parte* statement, and while we have, of course, absolutely no knowledge of the facts in the case under review other than that which can be obtained by all who peruse our correspondent's letter, it seems to us that whatever the strictly legal position may be, a principal would be well justified in suspending, or even cancelling, the articles of a clerk who considered himself entitled, merely by virtue of such articles, to do as much or as little work as he pleased. The whole object of articles is to provide a guarantee of practical experience in addition to the theoretical knowledge that can be tested in the examination hall, and if articulated clerks were to be held free to come and go when they chose, and to do as much or as little work as they chose, then clearly the only possible

objects of articles would be to secure premiums for principals and a very slack time for pupils, neither of which objects seems to be sufficiently deserving to justify the continuance of the existing practice. It is by no means an uncommon thing for principals to, as far as possible, make the office hours easy to pupils who, having just left school, may be reasonably expected to feel the confinement of office life at first, but it would be an entirely mistaken kindness upon their part if any such indulgence were to be extended throughout the whole of the period of articles, and thus whatever the legal rights of the situation may be, we would impress upon our correspondent the importance in his own interests of taking the fullest possible advantage of his present opportunities, which can only be done by conforming to the regular office rules in every respect.

Single-Ship Companies and Auditors' Certificates.

A correspondent has forwarded to us the published accounts of a single-ship company, dealing with the first two voyages of a ship covering a period of approximately six months, and although he does not formulate his query very precisely, we gather that he considers the auditor's certificate to be in order in view of the provisions of the Companies Act, 1900. We may point out, however, that the issue of interim accounts hardly appears to be governed by Section 23. The accounts before us are apparently not to be put before a general meeting of the company, but merely to accompany the dividend warrants explaining the present position. It is extremely desirable to issue audited accounts accompanying the payment of interim dividends, but we know of no reason why the provisions of Section 23 should be rigidly applied to such interim accounts.

London County Council Tramways.

As the result of a somewhat lengthy discussion, the London County Council has now decided to make no charge against the Tramways Accounts for the costs of street improvements not due to the tramways, to charge one-eighth in cases where the improvement was connected with the construction of tramways, and to charge the whole of the cost in those cases where but for the trams no improvement at all would have been made. Even if we accept this principle as reasonable, it must be obvious that there is scope for the greatest possible elasticity being observed in its practical application; but, however that may be, we may point out that the reduction of the charge against tramways to one-eighth

from the one-third formerly put forward as being fair can only be regarded as a frank admission that it has been found necessary to materially alter the basis of the accounts in order to show anything approaching a satisfactory result. The point is the more significant when it is remembered that at the London County Council election six years ago it was confidently urged that the tramways would yield between one and two millions in profits each year. We do not know whether anyone seriously expected or even believed that any such profits would be realised in fact; but it seems clear that, as a result of the past six years' experience, there is an enormous difference between promise and performance.

Touting.

The President of the Manchester Society of Incorporated Accountants has recently stated that in the case of a recent insolvency in which he was interested no fewer than thirteen applications for the trusteeship were made to one creditor, and he suggests that the Chartered and Incorporated bodies should work together to formulate bye-laws against this abuse. We are afraid that no bye-laws are likely to do much in a case where an existing express statutory enactment has been found entirely valueless. Improper solicitation for the appointment of a trustee in bankruptcy is a ground for the Board of Trade to refuse to confirm the appointment, or in the alternative it may disallow the trustee's remuneration. It would be difficult to frame stronger penalties, but inasmuch as they are in practice never applied, they naturally prove valueless. The remedy, it seems to us, lies rather in the direction of the two Councils impressing upon their members the desirability of their reporting all cases of touting that come to their knowledge, and for the Councils then to themselves undertake the task of representing the facts to the Board of Trade. Closely allied with this point is the subject raised by our correspondent "Alpha" last week. We, of course, know nothing more of the facts than he states in his letter, but we may mention that some of the greatest offenders in this matter of touting are those who have the least possible excuse for such conduct—namely, those whose names are well-known in a particular trade, and who thus in the ordinary course of events secure a goodly percentage of all available trusteeships. For such firms to issue, even to their own clients, a circular virtually attacking another member of the profession, is for obvious reasons entirely unwarrantable unless they are prepared

to substantiate at least a good *prima facie* case showing that there are grounds for believing that an independent trustee, or at least an independent inquiry, is necessary in the interests of the creditors generally.

Banking Reserves.

It is satisfactory to observe from the reply of the Chancellor of the Exchequer to an inquiry that was addressed to him by Mr. Money last week, that the question of the adequacy of our banking reserves is engaging his serious attention, and this satisfaction will be in no way decreased by Mr. Asquith's expression of opinion that any inquiry limited to the action of the Bank of England would take an unduly restricted view of the subject. The Bank of England, although apparently many persons are not aware of the fact, is a joint-stock concern as much as any of the other limited liability banks, and there is no more reason why the holders of Bank of England stock should pay for the cost of maintaining adequate gold reserves than that holders of other bank stocks should do so. The question is one of national importance, and should therefore be provided for either by national legislation equally applicable to all banks, or else by the nation itself as distinct from the banks. Bearing in mind that banks, practically alone of all undertakings, have shown a steady appreciation of capital value during the past five or six years, the former would appear to be the more reasonable course.

The Institute of Accountants.

According to the *City Press*, the first annual meeting of the members of the Institute of Accountants was held on the 16th ult. at the Holborn Restaurant, the business proceedings being preceded by a dinner, at which the Rev. G. Freeman presided. We gather that this body, which is now said to number 450 members, is the one that we drew attention to in these columns about a year ago, which then professed to be enrolling expert bookkeepers and teachers of bookkeeping. We had our doubts at the time as to whether it would long continue to employ a name which might be regarded as accurately describing the calibre of its members, and those doubts have now been clearly justified. The Institute of Accountants is the name of a body established in 1870, to which, ten years later, a Royal Charter of Incorporation was granted, and the impropriety of this name being appropriated by the newly-founded body is thus self-evident. It is significant that as these bodies of outside accountants multiply they appear to compete with each other in sailing nearer and nearer

to the wind in appropriating some form of designation that may be more readily confused with one of recognised standing. The state of confusion thus brought about is the best possible argument in favour of some form of legislation which may serve to enlighten the public; but at the same time it makes the practical work of those in favour of such legislation increasingly difficult.

Current Law.

BANKRUPTCIES AND INSOLVENCIES.

In re Van Laun; ex parte Chatterton. Bigham, J.

On appeal against trustee's rejection of proof, held that a trustee in bankruptcy is entitled to see detailed bills of costs in support of a solicitor's claim, notwithstanding the fact that the costs have been agreed by the bankrupt.—(*Times*, Nov. 28.)

Re A. Bennett; ex parte the Official Receiver.

Bigham, J.

Held, that the next-of-kin who has received money on the distribution of an intestate's estate, is liable to account to the trustee in the intestate's bankruptcy, even although he had no knowledge of the bankruptcy proceedings.—(*Times*, Nov. 28.)

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

Income Tax.

(*To the Editor of The Accountant.*)

SIR,—The following point in connection with income-tax has occurred to me, and I should be glad if you or any of your readers could tell me if my view of the case is the correct one.

Section 54 of the Act of 1853, in dealing with a deduction for life assurance premiums paid, concludes as follows:—

"Nor shall any such deduction or abatement entitle any such person to claim total exemption or any relief from duty on the ground of his profits and gains being thereby reduced below £100 or £150 as the case may be."

At that time exemption was allowed up to £100, and there was an abatement on incomes between £100 and £150 of all tax over 5d. in the £.

It would appear from the above that if a man's income is over £160 he cannot claim exemption through his life premiums reducing it below £160, even if it is done without altering the rate of abatement (as at the present time). Thus, if a man's income is £165 and he pays £4 in life premiums, he only bears tax on £1, but if he pays £6, he will not be allowed to deduct it and will have to bear tax on £5.

The above appears to me to be the correct reading of the Act, though its intention was no doubt merely to prevent the deduction altering the rate of abatement, but I have not come across it in actual practice.

I enclose my card and remain,

Yours faithfully,

ENQUIRER.

Licensing Act, 1904, and Income Tax.

(*To the Editor of The Accountant.*)

SIR,—Referring to "D.'s" letter in the issue of your paper dated 24th November, it is not, we believe, the practice to allow, as a deduction from profits for income-tax purposes, the amounts paid to the Compensation Fund under the above Act by owners of licensed properties, but brewers or brewery companies would be entitled to deduct the Compensation Fund charges payable in respect of such of the public-houses owned by them as were under management, in the latter case *quâ* publicans as distinct from owners. The reasons for the distinction are obvious from the Revenue point of view, but, at the same time, the fact that this *fresh* charge (amounting probably to from 1 to 1½ per cent. on the ordinary share capital in the case of brewery companies) on an already heavily burdened trade should be disallowed in arriving at profits for income-tax purposes, constitutes a considerable hardship.

We remain, yours faithfully,

RAWLINGS & WILKINSON.

Sunderland, 26th November 1906.

Income Tax Claims.

(*To the Editor of The Accountant.*)

SIR,—The point raised by "Query" in your issue of to-day is quite simply answered, and I do not think you quite appreciate his difficulty, otherwise you would not dismiss his query as irrelevant. I propose therefore, with all due deference, to correct your reply, and answer "Query" by giving him the following illustration:—

A. borrows £2,000 from B. on deeds of his freehold premises at 5 per cent., and B. stipulates that the interest is to be paid to him free of tax. Income-tax, Schedule A, is charged on the property, which, of course, as proprietor, A. pays.

Now, Sir, the subject-matter of the mortgage has borne its tax in the Schedule A assessment, consequently the income-tax on the income of B. from the mortgaged property has been paid by A., and his income from this particular source is exactly similar to income derived from dividends paid free of tax by public companies.

Now, if B.'s total income from all sources is under £160, or between £160 and £700, he is entitled in the first case to a return of the full current rate of income-tax, and in the latter case the full abatement will be repaid.

Perhaps the following letter, which I received from the Secretary to the Board of Inland Revenue a few years ago, on the very point raised by "Query," will interest not only him, but many of your readers:—

"I am directed by the Board of Inland Revenue to state that if your client has paid income-tax, or suffered income-tax by deductions from dividends, interests, &c., including *dividends* of companies paid 'free of income-tax' to the extent of the duty or the abatement to which he or she is entitled, and the remainder of *income is derived from sources duly assessed to income-tax, the duty on the full abatement will be repaid*, this being in accordance with the practice of this Department when dealing with abatement claims.

The mortgage interest paid in full will not be held chargeable to income-tax in the hands of the recipient, provided it be established to the satisfaction of the Board that the property on which it is secured has been duly assessed to income-tax, and that the duty has been paid to the Revenue."

I am, yours faithfully,

R. H. JOHNSTON.

Wolverhampton, November 24th 1906.

(To the Editor of The Accountant.)

SIR,—With reference to the letter under the above heading which appears in the current week's *Accountant*.

In your reply thereto you state that "the mortgagor would not be assessed for tax on the interest." This is probably true, but would he not pay the tax indirectly, in that he would not be allowed to deduct the interest from his income for income-tax purposes?

The case seems to be analogous to the declaration of a dividend free of income-tax by a company, and as a matter of equity it seems that the claim by the mortgagee for repayment (your correspondent says "exemption or abatement," but I presume he is referring to a claim for repayment on the ground of exemption or abatement), ought to be allowed, seeing that he indirectly bears the tax on his interest, owing to the fact that he receives a smaller amount yearly than he would have done had the mortgagor not agreed to pay the tax.

I should, however, like your opinion as to whether an agreement such as the one mentioned by your correspondent is legal, seeing that Section 103 of the Act of 1842 provides that any contract for the payment of rent *or other annual sum* in full and without deduction of tax is absolutely void, and Section 40 of the Act of 1853 imposes a penalty on any payee of rent, interest, &c., refusing to allow such deduction.

Yours faithfully,

Sheffield, 26th November 1906.

F. C. YOUNG.

(To the Editor of The Accountant.)

SIR,—A private gentleman owns a public-house, which is let on a repairing lease to a brewery at an annual rent of £375. The assessment for Schedule A is only £125, and the tenant only deducts the tax paid on this latter amount. Has he any power to deduct the tax on the full rent?

The gentleman in question owns several public-houses, to which the same principle applies, and thus escapes tax on a large amount. Notwithstanding this, he recovers tax on an annual premium of £200, paid on a large policy, and contends that he is perfectly justified in so doing, as the Inland Revenue themselves assess the properties and he simply proves to them, in accordance with their forms, that he has paid tax on more than £1,200. He argues that the balance of untaxed income from the public-houses is not now assessable, and that even if his other taxed income did not amount

to more than £1,200 he would be able to include this untaxed income to make up the amount of £1,200 in order to obtain a rebate of the tax on the life policy premium, and that, as a matter of fact, he did one year so include the whole income of one of the houses and no question was raised. He has shown me a draft of his statement for that year, and I cannot understand the rebate being allowed in full, when it should have been evident that the income was not taxed in full. The form states:—"This statement may be limited to so much of claimants' net income as may equal six times the amount of premiums, the tax on which is claimed to be repaid" and the amounts of net income and of tax paid are entered in separate columns.

Was the repayment a mistake, or is there something in the argument?

21st November 1906.

SURPRISED.

Compensation Cases.

(To the Editor of The Accountant.)

SIR,—In the case of a municipal authority or other public body requiring premises of a trader (say) for street improvements, I am informed that the fees of surveyors, valuers, and solicitors engaged are allowed by the arbitrator, but not the fees of an accountant, the trader having to pay these himself.

I shall be glad if you or any of your readers will inform me through your columns if such is the case.

Yours faithfully,

22nd November 1906.

QUI VIVE.

Shareholders and their Auditors.—Professional Etiquette.

(To the Editor of The Accountant.)

SIR,—Referring to your paragraph and also letter from chairman of a certain limited company, it must be very gratifying to many Chartered Accountants to read same, and I am sure great praise is due to the gentleman who declined to eject the auditor who offered himself for re-election. I am sorry to say that there are members of the Institute who not only stoop to eject, but also take a less fee. Now, I think it would be more professional if the rules of the Institute were strictly complied with, and thus stop any attempt by public or private companies to act in the manner referred to.

Yours faithfully,

JOSEPH RIGBY WILLIAMS.

Warrington, November 22nd 1906.

Charges Against Reserve Fund.

(To the Editor of The Accountant.)

SIR,—I should like an expression of opinion as to the proper course an auditor ought to pursue in the following case.

The directors of a limited company, deeming it advisable to at once dispense with the services of a manager, gave him three months' salary in lieu of notice, and immediately appointed a successor. The three months' salary amounted to a considerable sum, and the directors, desirous that the item of salaries shall not be abnormally increased in the year's Profit and Loss Account, wish that the amount shall be written off direct from a Reserve Fund originally formed for the equalisation of dividends. Can the auditor legitimately permit this to be done without making special mention of the fact in his report to the shareholders?

Yours truly,

24th November 1906.

AUDITOR.

Goodwill in Accounts.

(To the Editor of The Accountant.)

SIR,—Your correspondent Mr. D. W. Sinclair, in explaining his answer to the examination question (which answer you approve), says that under the *Students' Telephone* solution "the original partners obtain nothing as their share of the amount introduced by C. in respect of goodwill, nor are they even credited with it on their Capital Accounts, so that the net result of the transaction to them is nil."

I have no wish to set up my opinion against yours, or that of your correspondent, but it seems to me that the £800 added to the value of their assets for goodwill before admitting C. (for which no money was paid by them) is credited to their Capital Accounts in the answer given by the *Students' Telephone*.

The Balance Sheet, after the £800 has been added but before C. comes in, would stand thus:—

A. & B.—BALANCE SHEET.

Creditors	£ 2,650	Goodwill	£ 800
Capital Accounts—		Sundry Assets	10,650
A.	4,400		
B.	4,400		
	£11,450		£11,450

although A. and B. are actually no better off than before when their Capital Accounts stood at £4,000 each.

If C. then bought one-third share he would pay to A. £1,466 13s. 4d. and the same sum to B. He would

be paying them £1,333 6s. 8d. each in respect of the actual cost to them of the business and £133 6s. 8d. each for a third-share of the goodwill, which cost A. and B. nothing.

The same result would, of course, be arrived at by taking the *Students' Telephone* figures and dividing the cash (£4,400) equally among the partners, their capitals being then £2,933 6s. 8d. each.

The figure for value of goodwill—£800—seems to be brought into the accounts expressly to make C. buy a third-share of it. As the goodwill does not become any more valuable by reason of C.'s admittance, why should this figure be increased?

If you could see your way to explain in your columns why this view is wrong (as I suppose it must be) you would much oblige,

Yours faithfully,
GWENT.

(To the Editor of *The Accountant*.)

SIR,—As a candidate at the recent Intermediate Examination of the Institute of Chartered Accountants, I write in the hope that my comment on the case stated by your correspondent, Mr. D. W. Sinclair, will not only be the means of enlightenment to him, but will also show you, Sir, that the amended Balance Sheet of A., B., and C., as drawn up by Mr. Sinclair, is incorrect.

My view is in accordance with that published in the "Students' Telephone," and reprinted by you on page 634 of *The Accountant* of the 24th November 1906.

Mr. Sinclair states in his remarks that of the amount of £4,400 paid by C. in order to make him an equal partner with A. and B., "£400 is paid by agreement as his share of the Goodwill,"! and then goes on to build up the Goodwill to £1,200.

I contend that this is wrong.

The asset of Goodwill as created by A. and B. is only £800, and just because they take in another partner their asset of Goodwill does not increase.

There is nothing in the question to support the statement that "the £400 paid by C. was by agreement to be for his share of the Goodwill."

The asset of the £800 for Goodwill was created before C. entered the firm, and so brought A.'s and B.'s respective Capital Accounts up to £4,400 each.

C. pays £4,400 to make him an equal partner, but not "£400 for one-third of the Goodwill," and remaining £4,000 in consideration of one-third of sundry assets.

If he did that he would be paying for what did not

exist—i.e., £1,200 of Goodwill. The £4,400 that C. brings in is in consideration of one-third of the assets, less the liabilities, viz.:—

Sundry Assets	£10,650
Cash brought in by C. ..	4,400
	<u>15,050</u>
Less Liabilities	2,650
	<u>3) 12,400</u>
	4,133 6 8
and one-third of Goodwill, £800 =	<u>266 13 4</u>
	<u>£4,400 0 0</u>

I must say I fail to follow Mr. Sinclair's argument in the latter part of his letter, "that the original partners A. and B. obtain no benefit from the transaction."

Considering that they only brought in the half of £8,000 = £4,000 each, but after the creation of the Goodwill possessed capital of £4,400 each, I don't see what more advantage they would expect to gain, especially as C.—to be equal with them—has to provide in cash £4,400 to their original £4,000 each.

Again, to say that A. and B. obtain nothing as their share of the amount introduced by C. is absolutely incorrect, as by increasing their Capital Accounts by a book entry when C. joined the partnership they increased the share of assets to which they would be entitled, and incidentally included a share of the cash introduced by C.

Yours faithfully,
BASIL D. G. BALL.

London, 27th November 1906.

The Effect of Notice of an Act of Bankruptcy.

(To the Editor of *The Accountant*.)

SIR,—Referring to your article in last week's issue of *The Accountant*, page 626, on "The Effect of Notice of an Act of Bankruptcy," in the course of your remarks you state "plaintiffs were declared defaulters "on the Stock Exchange, and the Official Assignee "commenced to collect the assets. This, it may be "remembered, constitutes an 'act' of bankruptcy."

Can you kindly give me the authority for stating that this is an "act" of bankruptcy, as I cannot see that this comes under the several cases set out in the Act?

Thanking you in anticipation, I enclose my card, and remain,

Yours faithfully,

November 27th 1906.

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Directors v. Auditors.*(To the Editor of The Accountant.)*

SIR,—There is an unfortunate misprint of “our” for “or” in our letter to you under this head in your issue of the 24th inst. The sentence in which it occurs should read:—

“ We write to say that the item respecting which our difference with the directors of Kynochs, Lim., arose had no reference to or connection with Tubes, Lim.”

We have never been connected in any way with Tubes, Lim.

GIBSON & ASHFORD.

Birmingham, 26th November 1906.

[We very much regret the error.—ED. ACCT.]

Liability of Tenant.*(To the Editor of The Accountant.)*

SIR,—I shall be glad if you can, through the medium of your paper, give me an answer to the following question.

Is a person, holding premises under a lease or tenancy agreement, liable for the rent during re-instatement after a fire, when the lease or agreement is silent upon the point?

Thanking you,

I am, yours faithfully,

27th November 1906.

“ I. A.”

[Yes.—ED. ACCT.]

Prevention of Defalcations.*(To the Editor of The Accountant.)*

SIR,—A case has recently come to the knowledge of one of my clients in which large sums of money received in payment of Ledger Accounts have been misappropriated by an official of a company, and the frauds have been undetected for years by the auditors (Chartered Accountants). The customers whose payments have been misappropriated seem to have been in the habit of paying large sums on account, and the official has kept back the statements which would have been rendered to them in the ordinary course and submitted amended ones. My client is unaware as to whether there has been collusion between members of the staff, but has asked me to advise how the likelihood of a fraud such as the one I have described being perpetrated and remaining undiscovered can be obviated.

It seems to me that the only way to do this is for the auditor (besides seeing that a good system of internal check is in operation) to have the statements sent to his office (say half-yearly) and for him to send them off from there with a note thereon asking customers to

kindly notify discrepancies to the auditor at his address.

Do you, or any of your readers, know of instances where this is done?

Yours faithfully,

26th November 1906.

A. B.

Consols and Post Office Savings Banks.*(To the Editor of The Accountant.)*

SIR,—In the Weekly Notes of your issue of to-day you mention that the Chancellor of the Exchequer, in reply to Sir Howard Vincent, stated in the House of Commons that the nominal value of Consols purchased through the Post Office Savings Bank for investors in 1905-6 was £743,884, the amount of the purchase-money being £797,724? This would seem to imply that the average price of Consols during 1905-6 was at a premium. Do not the figures refer to the year 1895-6, or should £797,724 read £697,724?

Yours truly,

F. C. YOUNG.

Sheffield, November 24th 1906.

Outside Accountants.*(To the Editor of The Accountant.)*

SIR,—The thanks of the profession generally are due to you for your leader on the above subject. It is notorious that the Corporation of Accountants was founded for the purpose of exploiting with the letters C.A., and when that failed should it not have been relegated into oblivion? The letters F.R.C.A. looks like an attempt to get the letters C.A. in some way or other. Regarding the London Association, Lim., I have been informed of a case where a clerk who would not be eligible for either the Chartered or Incorporated membership, has had not less than six invitations to join at once. It is not by filling up a membership with warehouse or factory clerks, or by filching other people's titles, that the profession of accountancy is to be elevated or even saved from dispute. It is high time the Councils of the Chartered and Incorporated Societies put their heads together to purge the profession not only in their own interests, but in those of the public which has so much at stake.

I am, &c.,

27th November 1906.

PARS PRO TOTO.

Boston Consolidated Gas Company.*(To the Editor of The Accountant.)*

SIR,—Your issue of November 3rd 1906 has been laid before us, and in it we notice a re-publication of our

firm's report upon an audit of the Boston Consolidated Gas Company.

While we are gratified that you should devote considerable space to publishing this report in full, we regret that your comment upon it in your opening paragraph was rather unfair to us and unjust to your own reputation. Had you read the report before commenting upon it you could scarcely have escaped the statement, printed in the second paragraph on your p. 561, as follows:—

"These statements are given in consolidated forms; but in a subsidiary report which we shall submit to you within a short time we have set forth all of these matters in complete detail, together with a Balance Sheet of the assets and liabilities of the company at the close of the fiscal year, June 30th 1906, with our comments thereon."

The fact that, notwithstanding this statement, you should have remarked "we find it difficult to believe that accounts that entirely omit all mention of the Balance Sheet are representative," &c., is explainable only by the assumption that you had not read the report.

Otherwise, if the purpose of your comment was simply to be superficially critical, you have doubtless accomplished that result, but if a careful reading of our report—prepared in abbreviated form so that it might be published in accordance with the Sliding-scale Act—did not disclose to you some distinctive merit worthy of your favourable comment, at least in setting forth the income and expenditure statement in accordance with the proposed standard American schedule, we can merely express our disappointment.

We shall be quite willing to furnish the Balance Sheet of June 30th, and our comments thereon, as set forth in our second report, if you wish to publish it.

Very truly yours,

HARVEY CHASE & CO.

Boston, November 14th 1906.

[We regret that our correspondents should feel disappointed, but we can only repeat that, in our opinion, published accounts that do not include a Balance Sheet can be of but limited value. We are quite at a loss to understand why the Balance Sheet should be issued subsequently, and dealt with in a subsidiary report. What possible advantage can there be in issuing the accounts of an undertaking in serial form?—*Ed. Acct.*]

Prize Essay.

The Difference in Constitution and Relative Advantages of Private Firms and Limited Companies, and the Matters of Account Involved by a Conversion.

By Mr. STEWART GREEN.

THIS essay won the first prize in the recent competition arranged by the Union of Chartered Accountant Student Societies.

For ordinary purposes a private firm may be described as an association of two or more persons for the purpose of trading to their mutual advantage, or for the acquisition of gain by some other lawful means.

This description applies to all limited companies if we substitute the words "seven or more persons" for "two or more persons," with the exception of certain companies formed for the purpose of promoting science, art, commerce, religion, or any other useful object which may be registered under certain conditions as limited companies under the Companies Act, 1867, provided that a declaration is filed that no dividends or other gains will be paid to members, but all gains will be devoted to furthering the object for which the company was formed. These companies need not add the word "limited" to their name, and are not required to file the "Annual Return of Capital" and "Summary of Members," or the copy of the "Register of Directors," which other companies must file. Having briefly noticed the existence of these companies, it will not be necessary to again refer to them, because no private firms exist to which they can be compared.

In spite of the similarity which exists between the objects of a private firm and a limited company, the fundamental ideas underlying their creation, and the methods adopted by them for carrying out their objects, are as essentially different as the laws under which they operate.

Private firms have existed from the very earliest times, and the laws relating to them have been founded on the customs of merchants in their partnership transactions. These laws were not to be found in any one statute, but were spread over a great number until the Partnership Act was passed in 1890, which attempted to codify the existing law. This Act is the chief Act now in force relating to private firms, but other regulations affecting them are to be found in the Companies Acts and the Bankruptcy Acts. By the Companies Act, 1862, the number of members of a private firm was limited to twenty, and if the business of banking is carried on by a firm the number of members must not exceed ten.

Private firms are created by consent; no special procedure is necessary for their legal formation, though it is usual and convenient for the partners to draw up and sign a written document, known as the Articles of Partnership, in which are set forth the objects of the firm and the relations which it has been agreed shall exist between the partners, and which further shows how profits and losses are to be divided. Such Articles of Partnership will be *prima facie* evidence of the intention of the members of the firm in case of a dispute, but will not be conclusive, because partnership does not require fixed rules, but rather depends on the mutual relations between the partners, and any former decision may be set aside by consent of all the partners, and such consent will be implied if the partners have habitually acted contrary to the former decision.

Each member of the firm is entitled to act on behalf of and in the name of the firm in the usual course of the business, except in so far as he may have contracted with his partners to refrain from taking an active part in the management of the firm, or has contracted not to do any particular act or thing without their consent. Every partner is responsible for the acts and dealings of the other partners in the usual course of the business and within their apparent authority. The Courts have always liberally construed the apparent authority of a partner, unless it is proved that the person dealing with him had notice that such partner's authority was limited, and of the effects or extent of such limitation, at any rate, in so far as it affects the transaction in dispute. In *Baird's* case James, L.J., is reported to have said, "As between the partners and the outside world, whatever may be their private relations between themselves, each partner is the 'unlimited agent of every other in every matter connected with the partnership business, and not being in its nature beyond the scope of the partnership.'"

Again, every partner is personally responsible for the payment of liabilities of the firm to the full extent of his possessions.

Limited companies are of more recent origin, being first created in 1855 to meet the requirements of modern commerce. Up to this time companies having a capital divided into shares had no advantages over private firms, except as regards the finding of the capital; in fact, they have been thus defined by no less an authority than Lindley, L.J.:—"A company is an association of members, the shares of which are transferable. As distinguished from a partnership I know of nothing else except the transferability of shares."

Thus every shareholder, however small his interest in the company, was responsible for the payment of the liabilities of the company. The Act of 1855 was passed to remedy this drawback to the investment of small savings

in the rapidly increasing number of industrial companies of that day. Several amendments of the Act were made, until in 1862 it was repealed and the Companies Act of 1862 was passed, and which, with the amending Acts, is still the law relating to joint-stock companies, and these amending Acts are known as the Companies Acts, 1862 to 1900. All previous legislation dealing with companies was repealed, except such as referred to companies having a special Act of Parliament and those which were incorporated by Royal Charter. Some of these may be looked upon as limited companies, though they are not usually included in the term, and it is not intended to deal with their peculiarities in this essay, where the term "limited companies" will be interpreted as those registered under the Companies Acts, 1862 to 1900, and excluding those companies not formed for the purpose of gain previously alluded to.

The Companies Act, 1862, provided:—

- (a) That any seven or more persons associated for any lawful purpose may form an incorporated company with or without limited liability.
- (b) That the liability of the members may be limited either to the amount payable on the shares subscribed for by them, or by the guarantee of each member to contribute a definite sum to pay the debts and expenses of the company in the event of it being wound up.
- (c) That if the number of members of any company falls below seven, then, if the company continues to carry on business more than six months, each member who knows that there are less than seven members shall be personally liable for all the debts of the company incurred after the expiration of the six months.
- (d) Regulations for the management and administration of companies.
- (e) Regulations for the winding-up of companies.

A limited company is formed in statutory manner by seven or more persons signing a memorandum of association, writing opposite their names the number of shares each agrees to take, no subscriber taking less than one share, and registering such memorandum with the Registrar of Joint Stock Companies, who thereupon issues a certificate that the company has been incorporated, upon the fees being paid, such certificate being conclusive evidence of the formation of the company.

The memorandum of association must state:—

- (a) The name of the proposed company, with the word "limited" added.
- (b) The part of the United Kingdom in which the registered office is proposed to be situated.
- (c) The objects for which the company is to be formed.

Also where the liability of the members is limited by shares it must state:—

- (d) That the liability of the members is limited.
- (e) The amount of capital proposed to be issued.
- (f) The number of shares into which the capital is to be divided; and, where different classes of shares are to be issued, the number and value of each different class of shares ought to be inserted.

And when the liability of the members is limited by guarantee the following declaration is to be inserted in place of clauses (d), (e), and (f):—

- (g) That each member undertakes to contribute to the assets of the company in the event of its being wound up whilst he is a member, or within twelve months after he ceases to be a member, such a sum, not exceeding a specified amount, as may be required to pay the debts and liabilities of the company contracted before he ceased to be a member and the costs and expenses of winding up the company and for the adjustment of the rights of the contributories amongst themselves.

When the memorandum of association has been signed and registered it may only be altered subject to certain conditions, and for certain definite purposes, which are as follows:—

- (a) To change the name of the company. The special resolution passed by the company must receive the consent in writing of the Board of Trade before being registered.
- (b) To increase the capital of the company by the issue of new shares.
- (c) To consolidate and divide the existing shares into shares of larger amount.
- (d) To convert the paid-up capital into stock or to reconvert the stock into shares.

In the last three cases it is necessary that authority to make such alteration is contained in the memorandum of association, or in the articles of association, whether as originally drawn up or as amended by special resolution.

- (e) To reduce the capital of the company by the amount proved to have been lost. By a special resolution confirmed on petition by a Judge of the High Court. Such a scheme must provide for the payment of creditors, and be equitable as between different classes of share and debenture-holders.

If the petition be confirmed an order will probably be made that the company add to its name for a limited period the words "and reduced."

- (f) By special resolution confirmed on petition by the Court which would have jurisdiction on a petition to wind up the company.

To enlarge, restrict, or abandon any of its objects or the area of its operations.

To enable the company to carry on its business more economically or efficiently, or to add some

other business or businesses which may conveniently be combined with the existing objects; or,

To attain its main purpose by new or improved means.

It is very necessary therefore that the memorandum of association should clearly and fully define the objects of the company and the powers which it is intended it shall have, otherwise, at some future time, there may be an insuperable difficulty in extending the business as desired, or the company may find, say, that it has no power to manufacture some article used in the business which has previously been purchased completed, and which the company now has the opportunity of manufacturing cheaper than it can buy. It has been decided, however, by the Courts that, when a company is formed for a particular purpose and also has power to undertake all kinds of similar things, if that particular purpose fails, or when it has been completed, then the company has no power to turn aside or continue to carry on similar undertakings, because the particular purpose is what the shareholders subscribed the money for and all other objects are subordinate. (*Re German Date Coffee Company* (20 Ch.D. 169) and *Stephens v. The Mysore Reefs, &c., Co.* (1902, 1 Ch. 745).)

In a similar case Warrington, J., has decided that a company is acting *infra vires* in carrying on a similar undertaking where the memorandum of association authorises it, even though the primary object of the company has been abandoned, so that the law on this point seems to be rather unsettled. (*Pedlar v. Road Block Gold Mines of India* (1905, 2 Ch. 427).)

The memorandum of association must be contrasted with the articles of partnership of a private firm, so far as the latter relate to the objects of the firm, and the articles of association of a limited company take the place of that portion of the articles of partnership which deals with the internal conduct of the business.

Every company limited by guarantee must file articles of association at the same time as the memorandum of association, and other limited companies may but are not obliged to do so, in which case the regulations contained in "Table A" of the First Schedule of the Companies Act, 1862 (recently amended by the Board of Trade acting on the suggestions of the Committee appointed by them "to inquire what amendments are necessary in the Acts relating to joint-stock companies," and under powers conferred on the Board of Trade by Section 71 of the Companies Act, 1862, to alter Table A as they deem desirable, such alteration taking the place of the old Table A as regards all companies registered on or after October 1st 1906) take the place of articles of association.

The matters to be dealt with in such articles of association include:—

- (1) The division of the capital into shares, and how these are to be held and transferred, and the procedure to be adopted in making calls upon them, also if and how they may be forfeited, and the manner in which the holders are to be entitled to share in the profits.
- (2) Meetings of the shareholders, stating how and when they may be called, and what business may be done at general meetings and what at special meetings; also how the chairman is to be chosen or elected, and how and in what proportions the members may record their votes.
- (3) The directors; how they are to be elected; their term of office and powers and duties; how and under what circumstances they may be removed; and sometimes, also, how they are to be remunerated; and
- (4) Such other matters as may be deemed necessary or expedient.

The articles of association of a company, unlike the memorandum, may at any time be altered by special resolution, and the company or the shareholders cannot contract away this right of alteration. Thus, if there are different classes of shares in the company subscribed for, unless the rights and privileges of the different classes are set out in the memorandum of association they are subject to this power of alteration of the articles of association.

A member of a limited company—*i.e.*, a shareholder—has no right, as such, to interfere in the general management of the business, all such rights and the necessary powers and duties being vested in a committee of shareholders, known as "the directors." The first directors are usually named in the articles of association, and vacancies are filled in accordance with the regulations, if any, also contained in the articles, or, in default, by the company in general meeting.

A share in a limited company is transferable in some few cases by delivery of the share certificate, but more generally by a written instrument, which is executed and signed by both parties to the contract, and delivered to the company, who thereupon enter the purchaser or transferee of the shares as the holder of same in the Register of Members, at the same time removing the name of the vendor or transferor from the register with respect to the shares transferred, and also on the certificate for the shares being given up to the company they will issue a new certificate to the new member, certifying that he is the holder of certain shares, and stating the consecutive numbers of them, and also, if necessary, a certificate for the balance to the transferor. The new shareholder becomes liable for any calls not yet made on the shares acquired by him, and the transferor remains liable for all calls made but not paid on such shares, unless and

until the new member pays such arrears of calls. The transferor also remains liable to be placed on the "B" list of contributories should the company go into liquidation within twelve months of the transfer. In such a case the position is this:—The new member is liable for all calls which may be made on the shares by the liquidator; but should he fail to pay all or any portion of any call made upon him, the transferor becomes liable to make good the deficiency caused by his transferee's default, but only to such an extent as may be necessary to meet liabilities which existed before he ceased to be a member.

A member of a private firm, on the other hand, may not part with his share, nor may a new partner be introduced without the consent of all the partners, and a new partner is not liable for any debts incurred before he became a member, unless he holds himself out or allows himself to be held out as so liable; whilst a retiring partner is liable for all debts contracted before he retires, unless the creditor to whom any particular debt is due has accepted the new firm, by implication or otherwise, as responsible for it. A partner retiring from a firm may be held liable for future debts contracted by the firm if the creditor believed him to be still a member when the debt was contracted. To guard against this, notice must be given to all persons having dealings with the firm, and notice must also be published in the *London Gazette*, which is good notice to all other persons.

The estate of a deceased partner is not liable for debts contracted by the firm after his decease, and where a deceased partner's capital is left in the business, and a fixed interest is paid on it to his wife or children in the event of the bankruptcy of the firm, the wife and/or children will be deferred creditors, and not entitled to any part of the assets until all other creditors have received 20s. in the £, although they are not really partners.

It is a common practice for the vendor of a business to a private firm to leave part of the purchase-price in the business as a loan at interest, which may or may not vary according to the profits earned, or for the purchase-money to be repayable by instalments. The vendor does not thereby become a partner, though in case of the bankruptcy of the firm he is only a deferred creditor for the balance of the loan.

Other methods of raising loans which may be adopted by private firms are by way of a mortgage on specific property, or by an equitable charge on specific property or book debts, or by executing a bill of sale of specific property, or by obtaining a loan on the personal security of some or all of the partners or their friends.

The methods open to a limited company are by way of mortgage on specific property, by an equitable charge on specific property, by the issue of debentures (which may take the form of a bare promise to pay, or may give a

charge on specific property, or even on the floating assets or uncalled capital of the company), or by borrowing on the guarantee of the directors or any other persons willing to guarantee the loan. Calls paid in advance are really loans at a fixed rate of interest.

Having now touched upon the chief points of difference in the creation, construction, and management of private firms and limited companies, and the powers, duties, and liabilities of the members, there remains to be considered the question of when and how they may be brought to a close and wound up before dealing with their relative advantages.

Subject to any agreement between the members of a private firm:—

- (a) When no fixed term has been agreed upon for the duration of a partnership any partner may determine the partnership at any time by notice in writing to all the other partners of his intention to do so; and, unless the notice states the date from which it is to operate, the partnership is dissolved from the date of the notice.
- (b) If a fixed term has been agreed upon the partnership is dissolved at the expiration of the period fixed.
- (c) If entered into to carry out a single object, the partnership is dissolved by the termination or realisation of such object.
- (d) The partnership is dissolved, as regards *all the partners*, by the death or bankruptcy of any partner; or if any partner allows his share to be charged for a separate debt, the partnership may thereupon be dissolved at the option of any of the other partners.

If the members of a firm continue in partnership after the dissolution automatically brought about by any of the above causes, the partnership becomes a partnership at will, and may be terminated by any of the partners in accordance with clause (a) above, notwithstanding any clause in the original partnership agreement to the contrary.

The partnership is in every case dissolved by the happening of any event which makes it unlawful for the business of the firm to be carried on, or for the members of the firm to carry it on in partnership.

The Court may decree a dissolution of the partnership on the application of any partner whenever—

- (a) Any partner is found lunatic or of permanently unsound mind (the application may be made on behalf of the partner so found lunatic or of unsound mind by his next friend, or committee).
- (b) A partner other than the applicant has become in any other way permanently incapable of performing his part of the contract.
- (c) A partner, other than the applicant, has been guilty of such conduct as in the opinion of the Court,

regard being had to the nature of the business, is calculated to prejudicially affect the carrying on of the business.

- (d) A partner, other than the applicant, wilfully or persistently breaks the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable for the other partner or partners to carry on the business in partnership with him.
- (e) The business can only be carried on at a loss.
- (f) Any other circumstances have arisen which, in the opinion of the Court, render it just and equitable that the partnership be dissolved.

After dissolution the rights and duties of the partners and their power to bind the firm continue, so far as may be necessary to wind up the affairs and complete contracts begun but unfinished at the date of dissolution. This power does not continue to a partner who has become bankrupt, though if any other partner has represented himself as in partnership with the bankrupt he cannot plead this as a defence to an action seeking to make him liable on a transaction entered into with the bankrupt ostensibly in the name of the firm.

On the dissolution of a partnership every partner is entitled as against all the other partners, and all persons claiming through them, to have the property of the firm applied in payment of the liabilities of the firm, and any surplus after such payment applied in payment of what may be due to the partners respectively for advances as distinct from capital, and then in payment of what may be due to them respectively for capital, &c., and for this purpose any partner or his representative may apply to the Court to wind up the business and affairs of the firm. In such cases the Court will appoint a receiver of the partnership property, who becomes an officer of the Court and responsible to the Court for the realisation of the partnership property and for its disposal as the Court directs.

Limited companies may be wound up by ordinary resolution of the company whenever—

- (a) The period, if any, fixed for the duration of the company by the memorandum or articles of association has expired.
- (b) The event, if any, occurs upon the occurrence of which it is provided by the memorandum or articles of association that the company may be wound up voluntarily.
- (c) The objects of the company as set forth in the memorandum of association have been accomplished.

Limited companies may also be wound up voluntarily whenever—

- (a) The company has passed a special resolution requiring the company to be wound up voluntarily.

- (b) The company has passed an extraordinary resolution to the effect that it has been proved to the satisfaction of the company that it cannot, by reason of its liabilities, continue its business, and that it is advisable to wind up the same.

On the passing of such a resolution the company must cease to carry on its business, except so far as may be necessary for the beneficial winding up thereof, and on the appointment of a liquidator, which may be done by the same or any subsequent meeting of shareholders, the powers and duties of the directors cease and vest in the liquidator. If the resolution is a special one it must be printed, and a copy signed by the chairman or other officer of the company filed with the Registrar of Joint Stock companies within fifteen days, and whether the resolution be special or extraordinary it must be advertised in the *London Gazette*.

The liquidator may call meetings of shareholders whenever he may consider necessary, and must do so at the expiration of every year from the date of the winding-up, and present his accounts for the year.

All transfers of shares are void if made after the commencement of the winding-up, unless made with the sanction of the liquidator.

The company continues to exist in its corporate capacity during the liquidation, and the liquidator may sell the business, or part of the property in exchange for shares in another company, if he obtain the sanction of a special resolution of the company.

When the liquidation is concluded and the assets of the company have been realised, and the liquidator has applied them in payment of the expenses of the liquidation and in payment of the liabilities of the company, and distributed the surplus, if any, to the contributories, he must call a final meeting of the company and present his accounts, at the same time applying for his release. The meeting must be advertised for one month previous to being held in the *London Gazette*. The liquidator should apply for instructions as to the disposal of the books and accounts of the company at such meeting, or otherwise he must keep them five years and may then destroy them. After the meeting he must send a report of the meeting to the Registrar of Joint Stock Companies, together with a copy of his accounts. At the end of three months the company will be deemed to be dissolved, and will be struck off the register.

Any one or more of the creditors or contributories of a limited company, or the company itself, may present a petition to the Court to wind up the company compulsorily whenever—

- (1) The company has passed a special resolution that it be wound up by the Court.

- (2) A company does not commence business within twelve months from the date of its incorporation, or suspends business for the space of a whole year.
 (3) The number of members is reduced below seven.
 (4) The company is unable to pay its debts.
 (5) There is any other reason which seems just and equitable.

The liquidator is appointed by, and is an officer of, the Court, who will have regard to the wishes of separate meetings of creditors and contributories in making the appointment. The results are the same as in voluntary liquidation in respect to the status of the company and its directors, &c., but the resolutions of shareholders in general meeting are subject to the confirmation and approval of the Court before taking effect.

The liquidator obtains his release from the Board of Trade after previously giving notice to all creditors who have proved their debts, and to all contributories, of his intention to apply. The Board of Trade prepare a report on his accounts and take into account any objection urged by any person interested, and then grant or withhold the release. The liquidator has the right of appeal to the High Court if the release is withheld. When the liquidation is completed and the affairs of the company are completely wound up, the Court makes an order that the company be dissolved from the date of such order, and the company shall be dissolved accordingly.

Some of the relative advantages and disadvantages of private firms have been incidentally mentioned in considering the differences in their constitution, but there are others equally deserving of consideration.

The advantage to the persons carrying on a business of being in partnership as a private firm may be thus summarised:—

- (a) The business is kept as private as may be desired.
 (b) The construction of the firm is more elastic, and the objects to be carried out and the regulations under which they are carried into effect may be more readily varied or changed to meet new circumstances.
 (c) Fewer members are required.
 (d) The fees and stamp duties on incorporation are practically avoided, and this may be a serious consideration in a concern of very small magnitude.
 (e) There are no returns to be made of alterations in the capital and no annual returns of the members.

The advantages to the people putting money into a limited company as compared with a private firm are more important, and may be summarised thus:—

- (a) Their liability is limited.
 (b) The number of members is unlimited, and may be varied without altering the constitution of the firm, so long as there are always seven or more members.
 (c) A company has a perpetual succession, and in its corporate capacity may hold property, &c., thereby

obviating the difficulties and the risks and costs incurred in transferring property standing in the names of the individual members of a firm in case of the decease of a member.

- (d) The decease or bankruptcy of a member does not create a cause of dissolution.
- (e) Borrowing powers are increased by the facilities provided for issuing debentures secured by a charge on floating assets, without preventing them being dealt with in the ordinary course of business.
- (f) Better terms of credit can usually be obtained by a company than by a private firm.
- (g) If a large capital is required, shares or debentures can be easily offered to the public for subscription.
- (h) By having shares of small value, workmen employed in the business can be encouraged to invest part of their savings in the business, and this usually has very beneficial effects on the results of the business.

There are also advantages to persons having dealings with a company as compared with a private firm, and these indirectly benefit the members of the company owing to the increased confidence thereby induced. Amongst these may be mentioned:—

- (1) The facilities provided for ascertaining the amount of capital employed in the business.
- (2) The facility for persons intending to have dealings with the company to inspect the Register of Mortgages and Charges created and given by the company on its property and undertaking (specific mortgages of fixed property are only entered on the register kept at the registered office of the company, and this can only be inspected by members and persons who are already creditors).
- (3) The Register of Members, and also the Register of Directors may be inspected, whereas, though when any person brings an action against a private firm he may demand that the names and addresses of all the partners be given him, there is no other means of finding out who are the partners in a firm to whom a person is giving credit or with whom he has other transactions.

Again, a company must have a registered office, to which all notices, writs, or other communications may be addressed, so that there is no difficulty for persons who may have had dealings with a company in tracing it, even though it may have moved about.

The memorandum and articles of association of a company are open to inspection, and every one having transactions with a company is deemed to have notice of all matters contained in its memorandum and articles of asso-

ciation (every special resolution has to be printed, and a copy filed with the Registrar, and a copy inserted in every copy of the memorandum and articles issued after that date), and in consequence no action against a company based on a contract entered into with it which is inconsistent with its memorandum and articles of association can be sustained. Though if a certain act or thing must, according to the regulations of the company, be done in a certain manner, a person who is not aware that it was not so done is entitled to assume that all has been rightly done and to the benefit of the contract so entered into.

If the directors do an act which the company has no power to do they will be personally responsible; but if the company has power to do such act, though the directors have not, it is possible for the company in general meeting to adopt and ratify such action of the directors.

It is impossible in an essay of this kind to enumerate all the possible differences in constitution, or all the relative advantages of private firms and limited companies, and in particular the latter, because they naturally vary according to the exact circumstances in each instance, but it is believed that the most important differences and advantages, and those of most general application, have been mentioned and/or compared.

The matters of account involved in the conversion of a private firm into a limited company may be separately considered in respect to how they affect the two chief parties to the transaction, there being no accounts really involved with respect to the provisional contracts entered into with the agent or trustee for the proposed company.

The private firm are the vendors of their business, and they usually wish to make a profit out of the transaction. This profit is the sum which the company will be asked to pay for goodwill. The price to be paid will vary according to whether the company agree to pay all or any of the debts and liabilities of the firm. Assuming that the price has been fixed and the company formed, and the firm have done everything necessary to vest the property sold in the company, the company, to complete their part of the contract, will issue shares or debentures credited as partly or fully paid up to the members of the firm; and in order to pay the balance payable in cash, if any, they must issue further shares or debentures for cash, leaving themselves a sufficient margin to pay the expenses of floating the company, unless these have been paid by the vendors, and also to provide working capital.

In the books of the firm an account will be opened with the company, to which all the accounts of assets sold to and liabilities taken over and payable by the company must be transferred at the agreed price. This account will be closed eventually by the postings from the appropriate

subsidiary books of the cash and shares or other the purchase-price when received. The balances of the other accounts of assets, &c., not closed by the transfer made to this account will then be closed by a transfer to a "Realisation Account," the balance of which will ultimately be transferred to the accounts of the various partners in the appropriate proportions, and the partners' accounts will be closed when the entries are made, showing the division of the cash, shares, &c., thus closing the accounts of the partnership.

The proceeds of the sale must be applied to the discharge of all the liabilities of the firm which the company may not have agreed to pay, and then divided amongst the partners in accordance with the terms of the partnership deed, or, failing such terms, in accordance with Section 44 (b) of the Partnership Act, 1890, which reads as follows:—

"In settling accounts between the partners after a dissolution of partnership the following rules shall, subject to any agreement, be observed:—

(b) The assets of the firm, including the sums (if any) contributed by the partners to make up losses or deficiencies of capital, shall be applied in the following manner and order:—

(1) In paying the debts and liabilities of the firm to persons who are not partners therein.

(2) In paying to each partner rateably what is due from the firm to him for advances as distinguished from capital.

(3) In paying to each partner rateably what is due from the firm to him in respect of capital.

(4) The ultimate residue, if any, shall be divided in the same proportion as profits."

Section 24 (1) provides that "subject to agreement all "partners share equally the capital and profits and contribute equally towards losses."

Example.—A. and B. are partners in the firm A. & Co., sharing profits as to A. two-thirds and B. one-third. On 31st December 1905 their Balance Sheet shows Freehold Land and Buildings, £10,000; Plant and Machinery, £9,500; Stock, £5,000; Sundry Debtors, £7,500; Sundry Creditors, £3,000; Due to Bankers, £1,000; A. Capital Account, £18,000; B. Capital Account, £10,000.

X. & Co., Lim., with a nominal capital of £50,000 in £10 shares is formed to acquire the business from 1st January 1906 for £35,000, payable as to £7,000 in cash and £28,000 in fully paid shares.

£10,000 is paid for Goodwill, £1,000 is reserved for Bad Debts, and £1,000 is taken off the Balance Sheet figure of the Stock, and £2,000 off the Plant and Machinery, the company to pay the trade creditors but not the bankers.

The following Journal entries are necessary to record these transactions in the books of A. & Co.:—

1906		£	s	d	£	s	d
Jan. 1	Sundry Creditors Dr. to X. & Co., Lim. Being the liabilities of A. & Co., which X. & Co., Lim., agree to pay under the purchase agreement.	3,000	0	0			3,000 0 0
	X. & Co., Lim. Dr. to Sundrys:— Freehold Land and Buildings Account Plant and Machinery Account Stock-in-Trade Account Sundry Debtors Realisation Account (for Goodwill) Being the purchase-price of the assets included in the sale of the business to X. & Co., Lim.	38,000	0	0			10,000 0 0 7,500 0 0 4,000 0 0 6,500 0 0 10,000 0 0 38,000 0 0
	Realisation Account Dr. to Sundrys:— Plant and Machinery Account Stock-in-Trade Account Sundry Debtors Being losses incurred on the sale to X. & Co., Lim.	4,000	0	0			2,000 0 0 1,000 0 0 1,000 0 0 4,000 0 0
	Realisation Account Dr. to Sundrys:— "A" being $\frac{2}{3}$ share of net profit on sale "B" being $\frac{1}{3}$ share of net profit on sale to X. & Co., Lim.	6,000	0	0			4,000 0 0 2,000 0 0 6,000 0 0
Mar. 1	Sundrys:— A. Dr. to B. Dr. to X. & Co., Lim. Being 1,900 and 900 fully paid up shares in X. & Co., Lim., issued to A. and B. respectively as part payment of the purchase-price of the business.	19,000	0	0	28,000	0	0
	Cash Dr. to X. & Co., Lim. Being balance of the purchase-price.	7,000	0	0			7,000 0 0
	Sundrys:— Bankers A. B. Cash				1,000 0 0 3,000 0 0 3,000 0 0 7,000 0 0		7,000 0 0

From the point of view of the company, the accounts involved were similar to those affected by any purchase, with the addition of accounts recording the issue of capital and the payment of preliminary expenses. Adhering to the same example, and assuming that the company is appealing to the public to subscribe for shares, and that on March 1st the company proceeds to allotment, the minimum subscription having been fixed at £10,000. Preliminary expenses, including stamp duty on capital, were £500.

The following Journal entries are necessary in the company's books:—

1906		£	s	d	£	s	d
Jan. 1	Sundries:—						
	Freehold Land and Buildings..	10,000	0	0			
	Plant and Machinery	7,500	0	0			
	Stock-in-Trade	4,000	0	0			
	Sundry Debtors	7,500	0	0			
	Goodwill	10,000	0	0			
		39,000	0	0			
	Dr. to Sundries:—						
	A. & Co. (Purchase Account) ..	..			35,000	0	0
	Sundry Creditors	..			3,000	0	0
	Reserve for Bad Debts	..			1,000	0	0
	Giving effect to an agreement to purchase the business of A. & Co.				39,000	0	0
Mar. 1	Cash Dr. to	12,000	0	0			
	Applications Account	..			12,000	0	0
	Being £10 per share received on applications for 1,200 shares.						
	Applications Account .. Dr. to	12,000	0	0			
	Share Capital Account	..			12,000	0	0
	In respect of 1,200 shares allotted this day.						
	A. & Co. (Purchase Account) Dr. to	28,000	0	0			
	Share Capital Account	..			28,000	0	0
	Being 1,900 shares allotted to A. and 900 to B., as fully paid, in part settlement of Purchase Account.						
	A. & Co. (Purchase Account) Dr. to	7,000	0	0			
	Cash	..			7,000	0	0
	Being balance of purchase money.						
	Preliminary Expenses Account Dr. to	500	0	0			
	Cash	..			500	0	0
	Being the expenses of floating and registering the Company.						

Section 6 of the Companies Act, 1900, provides that a company may not commence business until—

- (a) Shares held subject to payment of the full amount in cash have been allotted to an amount not less than the minimum subscription authorised.
- (b) Every director has paid to the company in cash for each share taken by him, and for which he is liable to pay for in cash a proportion equal to the proportion payable on application and allotment on shares offered for public subscription.
- (c) A declaration in the statutory form has been filed with the Registrar that the above conditions have been complied with; and
- (d) The Registrar has thereupon issued a certificate that the company is entitled to commence business.

This section does not apply to a company which does not offer shares for public subscription.

Since contracts made by a company before it is entitled to commence business are provisional only until it receives the certificate, and bearing in mind that the contract for the sale of a business to a new company is usually dated from the date of incorporation of the company, or even from an earlier date, the question arises, How are profits

or losses of the business to be treated in the accounts which have been made during the intervening period before the company is entitled to commence business? They are not profits of the company, since it could not carry on business. The usual method is to arrange that the vendors carry on the business as trustees for the proposed company until it becomes entitled to commence business. The profits or losses, however, do not belong to the vendors, because they only came into existence after the operation of the contract of sale. The only feasible method, therefore, to legally dispose of these profits or losses is to add them to, or deduct them from, the agreed price of goodwill in the Balance Sheet, which should be drawn up as on the date of the certificate that the company is entitled to commence business.

Factory Accounting as Applied to Machine Shops.—III.

By JOHN WHITMORE.

(From *The Journal of Accountancy*, New York.)

ABSOLUTELY all of the work of determining the cost of manufacture ought to be effective also for the purpose of controlling the cost. This applies, of course, to cost accounting and not at all to cost estimating. One may know exactly what materials ought to be used to produce certain finished goods, and on the basis of such knowledge costs may be estimated, but this does nothing to insure the proper consumption of materials, and so far no provision is made to detect excessive consumption. The same remarks apply to labour and to all other expenses of production.

But if materials are controlled in a storehouse and can only be obtained thence by means of orders which are used in the accounting to credit the storehouse and to debit the individual Cost Account, then a record of the consumption, whatever it may be, is created, and there come into existence the means of seeing whether things are right or wrong and of applying any necessary correction. The same is true of a completely distributed productive labour Pay Roll.

The danger and the expense of wasted materials and wasted labour are known and borne in mind by all careful manufacturers, and the importance of safeguards against such waste is pretty generally appreciated. It may be repeated that such safeguards are created by means of accounting and not of estimating. The exact record is the only means of accurate knowledge, and accurate knowledge the only basis for systematic correction and improvement.

All this is to be borne in mind when we come to the accounting for factory capacity. If there is any difference it is that the conditions which exist in relation to the economical utilisation of materials and labour are intensified in relation to the economical utilisation of factory capacity, for the reason that, in regard to the last, standards of economy are less simple, less generally appreciated, and less strictly enforced.

Between the means ordinarily used in business management and in Cost Accounts to watch the utilisation of factory capacity and to deal with its cost, and a strict accounting for factory capacity, there is the same distinction that exists between estimates and strict accounts for materials and labour—that is, the strict accounting furnishes means of control which the other does not. It is worth while to be absolutely clear about this, and therefore to stop to consider what the means ordinarily used are.

In the first place, of course, every factory manager knows that he needs a certain volume of work. The Sales Department exists to secure contracts which will keep the factory busy. If the factory equipment and products are of a simple character this insistence on volume of business together with vigilant supervision of the factory may pretty nearly meet the necessities of the case, so far as utilisation of factory capacity goes. It is doubtful whether it ever quite does so, unless in the case of continuous processes to make a uniform product. In machine shops some machines may be overcrowded and others idle, and much more than mere volume of business is needed to secure full utilisation of the shop capacity.

Again, the ordinary means of representing the cost of factory capacity in the Cost Accounts for the products are undoubtedly the ascertaining of the charges for factory capacity, and often for many other expenses together therein in a year's accounts, and the ascertaining of the ratio between the total of these and the productive labour charge, and thereafter the adding of the apparently necessary percentage to the productive labour item. If the factory is of a very simple character, and if the year's accounts from which the percentage is derived represent average full operation of the factory, something like accurate costs may be arrived at by these means. This is not saying much, as any degree of simplicity in operations and records may be supposed. Obviously no such simplicity exists in machine shop operations. The assumption in such a method is that factory equipment and labour are always utilised equally. Nothing could be further from the case in machine shops. Often expensive labour is used with slight use of machinery or small tools; and, again, the most expensive machinery is used with relatively little labour. Plainly in the case of machine shops the means ordinarily used for obtaining the full utilisation of factory capacity and for determining the cost of the

respective products are not calculated to really accomplish either one or the other. They are, in fact, in some respects much weaker in comparison with an actual accounting for factory capacity than estimates of materials and labour in relation to an actual accounting for the same, inasmuch as these estimates may represent what ought to be the facts, while a uniform percentage added to productive labour in machine shop Cost Accounts either has for its basis conditions which no longer exist, or is from first to last merely a makeshift.

It is worth while to consider carefully why the matter of accounting strictly for the use of factory capacity has not generally appealed to manufacturers as of equal importance with the accounting for materials and for productive labour. All manufacturers know that the cost of factory capacity, at least in the shape of repair and depreciation charges and taxes and insurance, enters into the cost of production as truly as does the cost of materials and the cost of labour. It is the total cost and not the details of the cost that is ultimately of importance. A dollar saved in the charge for plant employed is equal to a dollar saved in the materials used. The accounting for factory capacity is perhaps a matter of rather greater difficulty; the means of doing it are less understood. This may partly explain a lesser apparent interest in doing it. But it does not fully account for the average attitude toward the matter.

It seems probable that the average feeling is that the expenditures for materials and labour are current expenditures, which are greater or less from day to day according as there is greater or less economy or waste, while the existence of the plant and the necessity of maintaining it are fixed facts entailing a practically fixed expenditure. By taking thought to-morrow's expenditure for materials or labour may be more or less, but not the expenditure which enters into the cost of the factory product as plant charges. If this is true, it means that waste impresses the average man more or less according as its effect upon the Cash Account is immediate or remote, and that upon the same principle the outgoing dollar impresses him more than the incoming one. For to increase output so that a dollar of plant charges can be taken out of the cost of the former output as being a part of the cost of the new additional output, which will be sold and paid for at least at its cost, is as profitable an operation as to reduce by a dollar the cost of materials or labour.

Or it is possible that the average feeling is that a return will be obtained for the plant expense as far as the product of the factory can be sold, and that as there is no other means of obtaining a return for it it is idle to count it up as if it were remaining cash. If this is the feeling, it fails to take into account influences which have their effect upon human effort: the sense of opportunity, the sense of

necessity, the exact knowledge of what ought to be done. It is for one thing to set at work these influences, to show exactly what factory capacity is unutilised, and what the resulting loss is, that the accounting for factory capacity is set up.

Even the feeling that plant expense, including interest on the investment in plant, is less actual expenditure than the expense of materials and labour, or that it calls for less care in tracing it to its results, comes, generally speaking, from an inadequate view of things. Expenditure for plant is not made once for all time, nor is plant usually created to be worn out and to pass out of existence. The ordinary business condition is that investment in plant is continually being returned and being reinvested in plant. The investment which was made in the first place on a calculation of certain operation under certain future conditions is continually re-made with what ought to be an exact knowledge of actual operation under conditions actually existing. If an investment in plant is contemplated, one calculates whether in operation it will be profitable to the extent of paying all current expenses and a fair return upon capital. It is upon such a calculation that one creates a factory or buys a single machine. In actual operation one has the opportunity to compare alternative processes with varying machine and labour costs, and to learn not only whether a machine can be operated profitably, but whether by means of it the lowest costs of which one knows are obtained. And this knowledge should be the result of comparing cost figures which sum up all the facts, including the fact of the larger or smaller investment which the different processes necessitate.

If one can reduce the labour cost of production by increasing the machine cost, and *vice versa*, it follows that to compare labour costs only might lead to conclusions that would be modified, and possibly reversed upon comparison of combined machine and labour costs. And if processes having higher costs are to be systematically eliminated in favour of those having lower costs, it is the complete cost of each that must be known and available for quick use. And if plant expenses are actual costs, as materials and labour are actual costs, they must be included in Cost Accounts according to actually determined facts, and not by any arbitrary or makeshift distribution creating the appearance of profits or losses which are not actual, and furnishing an unsound basis for the selling operations.

For these reasons it is necessary to arrive as closely as possible at the hourly expense of each machine, and to record machine time as accurately as a workman's time is recorded, and to charge the machine expense for the job into the Cost Account for the job, exactly as the labour expense is charged.

The hourly expense of each machine is made up of the

expense of land and buildings and of the machine itself. The expense of land and buildings is first distributed to the several divisions of the plant that have to be dealt with separately in the Cost Accounts. What these divisions are depends upon the individual situation. Necessarily there is the storehouse with its own Expense Account, and the tool room with its own Expense Account, and various offices. Space not occupied by machines but used for assembling is dealt with separately. The space occupied by the power plant, the expenses of the power machinery, and all other expenses of power, are dealt with in a group, and are brought into the Cost Accounts by means of a charge per horse-power hour for machines running. It is necessary to have a rate per hour for each machine chargeable in the Cost Account for the whole time the machine is engaged upon the job, including the time occupied in setting up the machine, in putting materials into it, and taking materials out of it, up to the time it is released ready for the next job. The power time, being the actual running time of the machine, is necessarily less than the machine time, so that the machine rate is chargeable for a certain number of hours and the power rate for a lesser number. The whole subject of the accounting for power expense, perhaps the most difficult problem in machine shop Cost Accounts, must be taken up by itself.

The first item in the machine rate is, then, the charge for factory space, the most convenient unit of which is the square foot of floor-space. This charge consists of the following items:—(1) Interest on the cost of land; (2) Interest on the cost of buildings; (3) Expense of repairing buildings; (4) Charge for depreciation of buildings; (5) Expense of heating and lighting buildings; (6) Insurance and taxes on land and buildings. The term "buildings" is here used as including certain working equipment—such as heating and lighting fixtures, elevators, wash-rooms, &c. These, however, should not be included with buildings in a single General Ledger Account, for they are as a rule subject to a higher rate of depreciation.

While buildings do not actually cover the land on which they stand, the floor-space in the buildings is chargeable with the whole expense of the land, unless some of the land is either unused or used for some purpose the expense of which is dealt with separately from the floor-space charge. Thus yard-space used for storage purposes is chargeable to storehouse expense, and not to the cost of factory floor-space. On the other hand, the yard-space which is necessary for purposes of light, and in order to handle work conveniently between the several shops, is properly treated as a part of the expense of factory floor-space.

When the total cost of floor-space has been ascertained, and the floor-space itself has been measured and the measurement of each separate room recorded, the total cost is divided by the total measurement, and the cost of the square foot of floor-space is arrived at. Then there is distributed to each room its proportionate cost, which in the case of machine shops fully occupied by machines is afterwards absorbed in the machine rates. Not all floor-space, however, is used for machines, or for directly productive operations. There is the storehouse space already alluded to, and there may be other space reserved for the storage of large castings in machine shops. All of this is charged to storehouse expense exactly as was the cost of yard-space used for storage purposes. And floor-space is needed for both factory and general offices, and the charges for these are added to the general factory expenses and the general office expenses respectively.

The next step is to measure the space taken by the individual machines. The manner of determining these measurements should always be carefully considered. Perhaps the best rule is to arrive at a four-sided rectangular space which will just suffice to accommodate the machine in operation, unless it is plain that this would include space which is either constantly or occasionally put to other uses. The total space in the shop, less the total space measured as occupied by machines, is the working space which is to be regarded as existing for the benefit of the machines impartially, unless upon examination some distinction is recognised. If there is no such distinction, then the space measured for each machine is to be increased by such a percentage as will complete the distribution of the shop space to machines. The machine space thus arrived at, at the cost per square foot already determined, is the first item in the expense of the machine for the year.

The next thing to take into consideration in determining a machine rate is the present value of the machine and its estimated remaining years of life. Upon these the interest and depreciation charges are based. An equitable charge for depreciation will probably be made if a rate is used which, written off the decreasing balances from year to year, will reduce a machine to 10 per cent. of its cost by the end of its estimated lifetime. This gives the highest charge when a machine is new and presumably at its highest efficiency, both actual and relative, and a steadily decreasing charge from year to year.

Next there is the matter of the annual repair charge. Shop foremen can tell pretty well what the bare expense of maintaining a machine in working order is, exclusive of accidents. When such a figure is stated it may be doubled to cover repairs from all causes, in order to arrive at a roughly fair figure to use until actual records correct it. An actual record of the cost of repairing each machine

should be kept in a Machinery Ledger. The Machinery Ledger contains an account for each machine, its number, and description, and location in the shops, and its value. Depreciation is written off each account from year to year, and the Ledger is always kept in agreement with the Machinery Account in the General Ledger. If machines are disposed of, the difference between book valuation and selling price or scrap value is known, and the accounts are easily and accurately adjusted. Columns should be provided for the record of repairs: Date, Shop Order Number, and Amount. As all records of repairs to machines, whether labour or material records, bear the number of the machine repaired, postings to the Machine Ledger Accounts are easily made, and a continuous record of the cost of repairing each machine is created.

If power is transmitted by means of shafting, belting, and pulleys, we have to take into consideration the interest on the investment in the equipment, and the expense of keeping it in repair, and a fair depreciation charge. The average horse-power taken by each machine when in operation is calculated as closely as it is possible to do this, and the sum of these figures, being the average horse-power taken by all the machines in operation, is arrived at. The expense of interest, repairs, and depreciation upon shafting, belting, and pulleys is divided by this total horse-power to determine what charge in each machine rate, per unit of power required to operate, will take up this expense. If all the machines in operation would, to use mere round figures throughout, take 100 horse-power available at the machines—that is, exclusive of power lost in transmission—and if the total expense attaching to the transmission equipment were \$1,000 per annum, and if a certain machine is calculated to use on an average two horse-power when in operation, the resulting charge in the yearly expense for that machine is \$20.

The next expense that has to be dealt with is the expense of cranes. The process of figuring this expense is very similar to the process of figuring the expense of a machine tool. There may or may not be a floor-space charge. There is always interest on the investment in the crane and the expenses of repairs and depreciation. Then there is an estimate, and necessarily it is an estimate only, of the power used by the crane. A shop foreman knowing the average use of a crane, and an engineer able to make an approximate calculation of the power used in given operations, should together be able to make a fairly close estimate. The total horse-power hours so estimated, at the ascertained cost per horse-power hour, is then brought into the yearly expense of the crane, and this yearly expense of the crane is then apportioned between the machine tools served by the crane, and this is the item of crane service which enters into the hourly rate for the machine.

There are other items which properly enter into the annual expense of the individual machine tool. The General Ledger Account for the sundry supplies of a Machine Shop Department should be carefully examined to ascertain which, if any, of these supplies are used for the operation of certain machines, and in as far as supplies are for the use of certain machines, and not for the purely general use of the department, the expense of them should be brought into the machine rates and not left in the department general expenses. It is to be borne in mind that the more expenses can be brought into the individual Machine Expense Accounts, the more exact and the more simple the Cost Accounts will be.

The wages of a foreman whose supervision is restricted to a limited number of machines, and is not general to the department, are also most accurately distributed by including these wages in the expense of such machines, and ultimately in the hourly rate charged for their use.

It is also desirable to bring the expenses of tools whose use is restricted to certain machines into the annual expense and the hourly rate for such machines. This can be done where the Tool Department and its records are systematically organised.

The items, therefore, which possibly enter into the hourly rate chargeable for the use of a machine are the following:—

- (1) Floor-space.
- (2) Interest on investment in machine.
- (3) Repairs to machine.
- (4) Depreciation of machine.
- (5) Proportion of shafting, belting, and pulleys expense, consisting of interest on the investment, and repairs, and depreciation.
- (6) Crane service.
- (7) Supplies which are special to the machine.
- (8) Proportion of superintendence which is special to a limited number of machines.
- (9) The expense of interest, repairs, and depreciation on tools whose use is confined to the machine.

When the annual expense of each machine has been determined, it still remains to deduce the hourly rate, and this is rather far from being a mere arithmetical calculation.

In the first place it is necessary to divide the machines into at least two classes, and for most machine shops that have been in operation for some time into three classes. The first class will consist of machines of full efficiency, whose use is general, and whose full capacity should under proper conditions be constantly used. The second class will consist of machines of full efficiency, installed for special and occasional use, and not upon a calculation of continuous operation. The third class is for machines which are not of the highest efficiency, but which are

maintained and used when other machines which could do the work more economically are busy.

Concerning the first class, the only question is what in a reasonable view of the matter constitutes full operation. Machines are sometimes idle for repairs, and under the best conditions time is occasionally lost from other causes. If 300 days in the year are multiplied by the working hours per day and then 10 per cent. deducted, and the resulting number of hours adopted as the standard of full operation for the year, such a standard would seem reasonable and certainly not too high. If the working day is nine hours, then $300 \times 9 = 2,700$ less 10 per cent. = 2,430, and the annual expense of the machine is divided by 2,430, and this gives the hourly rate.

Concerning machines in the second class, inquiry must be made as to the special uses for which they have been installed, and the extent of the use calculated upon and regarded as justifying the installation, and if, for instance, this was 50 per cent. of the full time, the number of hours into which the yearly expense is to be divided would under the conditions above suggested be 1,215 instead of 2,430. Such a calculation as this is subject to adjustment if it is found possible to utilise the machines more fully. If the use falls below the original calculation, the deficiency must probably be regarded as capacity idle which should be operated, and the cost of it charged to Idle Capacity Account.

For machines in the third class—*i.e.*, machines that have not a high efficiency, which, in other words, are semi-obsolete, but which it is occasionally convenient to use—the hourly rate should be determined exactly as for machines in the first class—*i.e.*, the total annual expense divided by 2,430—and this for two reasons: First, their use is certainly worth no more than the hourly rate so determined, and probably even on this basis the work is expensively done; and, second, the actual cost of keeping such machines in the shops cannot be too plainly shown.

The hourly rate for each machine in the shops having been arrived at, their use in Cost Accounts and general books is as simple as any familiar bookkeeping work—as simple, for instance, as to record and distribute the productive labour Pay Roll. The two records of productive labour and machine time run at first together. The labour tickets which the machinists fill out for each job worked on state the shop order number, and the operation, and the machinist's time, and the number of the machine tool, and all this information is transcribed on the workman's individual weekly sheet, which is necessarily prepared for the purposes of the Pay Roll. Then there is a book called a Machine Rates Ledger, containing an account for each machine tool in the shops, and from the workmen's weekly sheets there is posted to the accounts in the Machine Rates Ledger every item of machine time, and these items are

priced and extended at the hourly rate for the machine and are thence posted to the Cost Ledger Accounts. The charges of machine time having been posted to the Machine Rates Ledger for a given period, which it is convenient to make even weeks instead of the month inasmuch as the postings are made from weekly sheets, a statement is drawn off from this Ledger showing all the machine numbers and against each the time charged in the period and the amount of the charges. On the statement the idle time is entered and extended at the machine rate per hour. The idle time for each machine is, of course, the difference between the time charged in the Cost Accounts for actual use of the machine, and for a four-weeks' period, four fifty-second parts of the number of hours into which the machine expense for the year was divided.

The completed statement, except that we are not now considering the power charge, which presently will be incorporated in the Machine Rates Ledger and in this statement, is like this:—

Machine No.	Time Charged	Amount	Idle Time	Amount

And the Journal entry for the general books is made like this:—

Manufacturing Account,
Idle Capacity Account,
To Machine Rates,

the debit to Manufacturing Account being the machine time recorded on the workmen's tickets, and transcribed to their weekly sheets, and posted to Machine Rates Ledger and Cost Ledger; and the debit to Idle Capacity Account being the difference between the time so charged and the time calculated upon as full operation; and the credit to Machine Rates Account being the full machine rates, or, in other words, the full machine expense for the period.

Each account in the Machine Rates Ledger is continuous and without entries for idle time, so that at any time a statement can be drawn off from the Ledger showing the idle time of each machine from the beginning of the fiscal period to date and the cost of the idle time in each case, just as the monthly statement gives the same information for the month. The unused capacity of the shops is thus

exactly stated, and its causes and the remedy can be investigated.

It may and doubtless will happen that machines are at times operated more than the hours calculated upon, and that consequently instead of debits there will in some periods and in respect of some machines be credits to the Idle Capacity Account. Under these or any circumstances the plan laid down is to be followed, and as it is followed will be found to operate to further useful ends, and will not disclose any unsoundness.

Manchester Society of Chartered Accountants.

Annual Dinner.

THE annual dinner of the Manchester Society of Chartered Accountants was held at the Grand Hotel, Manchester, on the 22nd ult. The President (Mr. J. P. Garnett) presided, and among the guests were the Mayor of Salford (Alderman Frankenburg), Mr. W. Cobbett (President of the Manchester Incorporated Law Association), Mr. W. B. Peat (President of the Institute of Chartered Accountants in England and Wales), Mr. S. Taylor Gill (President of the Sheffield Society), Mr. J. Grant Gibson (Official Receiver at Manchester), Professor Chapman (Dean of the Faculty of Commerce of the Manchester University), Mr. E. H. Langdon (President of the Manchester Chamber of Commerce), Mr. A. Bennie (President of the Manchester and District Bankers' Institute), Mr. A. A. Gillies, Mr. E. Paterson, Mr. David Smith, Mr. C. W. Nasmith, Mr. C. F. Woolley, Mr. Fred Scott, Mr. H. Miller, Mr. J. Walkden, Mr. A. S. Brewis, Mr. P. Gregson, Mr. F. Womersley, Mr. E. Johnson (Assistant Official Receiver at Manchester), Mr. A. P. Popplewell (Hon. Treasurer), Mr. Roger N. Carter (Hon. Secretary), and Mr. William Ashworth, Mr. J. E. Halliday, Mr. T. Gregory, Mr. J. G. Litton, and Mr. J. Mather (Manchester members of the London Council of the Society).

After the loyal toasts had been honoured, the Chairman gave "The Institute of Chartered Accountants in England and Wales," coupled with the name of Mr. W. B. Peat. In doing so he referred feelingly to the death during the year of their esteemed friend, Mr. Adam Murray, who, he said, had been a shining light in the profession of accountancy in Manchester for many years. Incidentally he mentioned that the President of the parent organisation had lately decided to present a prize to the most successful man in the Intermediate Examinations, which would entitle the winner to £30 a year during the time he was serving under articles. (Applause.)

Mr. Peat, in responding, alluded to the steady growth of the Society. A great deal might, he said, be observed of its past, its present, and of its future. They were an ever-increasing number, increasing in influence, and in the power which they possessed not only as an Institute, but as the leading organisation of professional accountants in this country or abroad. They had carried out in a proper spirit the duties which were placed on them by their Charter, but had to consider themselves in the position of those who had come into an inheritance, and contemplated the use they were to make of the power and privileges they possessed. Their privileges, he submitted, had been used for the benefit of the public at large. But it was now time that they became possessed of a legal status. They sought no monopoly in that direction; they desired to exclude no responsible person, but they did desire and seek that there should be a register and legal protection for those who, like themselves, had become qualified to discharge their duties. Those who had not so qualified, he held, should be excluded from the register and the right to practise.

In proposing "The Corporations of Manchester and Salford," Professor Chapman said the accountants and the University of Manchester were in these days drawn very closely together. Accountancy had become a degree subject in the University, and it formed a compulsory and a very important part of the course which led up to the degree of the Faculty of Commerce. He paid a tribute to the work of the two corporations, and expressed a hope that they would pursue in the future the policy of the past.

Alderman Frankenburg, in the absence of the Lord Mayor of Manchester, briefly responded. It had been his endeavour, he said, to promote the friendly feeling that existed between the city and adjoining borough of Salford, for he recognised that they were practically one people.

Mr. Theodore Gregory gave "The Trade of Manchester and Salford."

Mr. E. H. Langdon, who responded, said they were passing through times of unparalleled prosperity. But about those times he had certain misgivings. They worked in England in a manner different to those nations which were attempting rapidly to overtake us in the race of commerce. They were working on unscientific lines, and it behoved them to endeavour to bring their business on to a more scientific footing. He was pleased to be able to say that by the foundation of the Faculty of Commerce at the Manchester University they were turning in a right direction. But they were still deficient in this country in what he would call auxiliary aids to trade. They still lacked certain enactments on the Statute Book that were to be found abroad. He alluded, for instance, to a Registration of Firms Bill, which, he said, would be of the greatest importance and utility, and also a measure which had long been sought in respect of the limit of partnership. This

latter he was sure would greatly assist commerce, and would be taken advantage of by many capitalists who, having made their money, at present retired from the scenes of commercial activity. We were also suffering from the want of a Ministry of Commerce. (Hear, hear.) All these things urgently required remedying.

"The Legal Profession" was proposed by Mr. J. Grant Dixon, and responded to by Mr. W. Cobbett; "The Provincial Societies of Chartered Accountants" was given by Mr. John Mather, and replied to by Mr. S. Taylor Gill; and "The Banking Profession," proposed by Mr. J. E. Halliday, was acknowledged by Mr. A. Bennie.

Companies' Secret Reserves.

THE following letter appeared in *The Evening Standard and St. James's Gazette* of October 30:—

"Sir,—Your recent leaderette anent the above question revives an issue as to which there has always existed considerable diversity of opinion amongst professional as well as business men, and the principle involved extends to other matters more or less of a similar and controversial nature.

Although I think it is going somewhat too far to suggest, as you do, that every strong company, whether carrying on commercial or financial business, 'has reserves which are not displayed in its Balance Sheets,' there is no doubt that the practice does to a considerable extent obtain, more particularly in undertakings of a certain class. I have, moreover, known cases in which merely the difference between rather than the separate totals of the debtors and creditors has been stated, and where the respective totals of the property and assets and liabilities are not infrequently shown without any attempt being made to distinguish between free assets and those specifically hypothecated in respect of debts or charges merged in the general liabilities. In other words, the so-called Balance Sheet, instead of being, as it certainly ought to be, a statement of affairs set out in a manner capable of being readily understood and appreciated, is at best a glorified trial balance of the books, which oftentimes engenders a wholly erroneous impression as to the real position it purports to portray, and thereby constitutes a serious menace alike to the security of creditors and shareholders. Facts in such cases often avert, by reason of being disclosed, losses much greater ultimately than any benefit assumed to be gained from their suppression.

Reserves, whether 'hidden' or otherwise, are, of course, a source of strength to the position and earning capacity of most concerns, and although they are frequently subsequently deducted before arriving at the figure stated as representing the total assets or some particular asset, the

original entries creating reserves of any kind must of necessity appear in, and ought at the time to be openly disclosed either by the published Trading Account, Revenue Account, or Profit and Loss Account. It would, in my opinion, be wholly improper to create any reserves (other than provision for bad debts or similar ordinary contingencies of business) without acquainting shareholders, and it is the almost invariable practice of directors to state how it is proposed that the total profits for any given period shall be appropriated.

I am afraid that in bad times they are perhaps not quite as ready to further increase the balance standing to the debit of Profit and Loss Account, and that provision such as prudence dictates and exigencies demand should apply to good and unfavourable results alike, is often thus omitted to be made, the consequence being that the Profit and Loss Account loses its potency as a safety valve to indicate the amount from time to time properly available for distribution by way of profits.

The three main considerations which ought to govern the creation and subsequent treatment of reserves of any kind are:—

- (a) That there shall be a more or less specific reason therefor, and that the provision, whilst being adequate, shall not be unduly general or subsequently erratic in variation.
- (b) That the objects they are created to secure shall not afterwards—so long as these continue to subsist—lose their identity, and the funds be devoted to purposes other than those originally contemplated.
- (c) That the ultimate rights of the founders and/or different classes of shareholders respectively, shall be clearly defined, and the effect, *inter se*, in the event of liquidation or a return of capital being made, thoroughly understood.

How reserves, when once created, are treated in subsequent Balance Sheets of which they form an integral part, goes, of course, to the root of the entire question; but whatever may be considered the advisability or otherwise, either of the massing or condensing of figures in a Balance Sheet upon the principles above referred to, I contend that a document prepared upon such a basis does not disclose or exhibit, as is invariably stated, 'a full and true statement' of the position and affairs it relates to. A shareholder is, in my view, just as much entitled to know how much better as well as worse his security really is than what it appears to be, as a creditor is entitled to be protected against statements of account calculated to mislead him respecting the true financial position of those with whom he is dealing, or proposes to have business relations.

It may, of course—and with considerable degree of force—be argued that no one is prejudiced by the 'hiding' of reserve funds. That may be so, and no greater proof of this is needed than the fact that the securities of many companies are quoted at prices much in excess of what are apparently warranted by the dividends actually paid, the effect being that what a shareholder has not received in this connection is reflected by the enhanced price which, in the event of a sale of his holding, would accrue to him. This does not, however, affect the principle involved, nor does it enable the real position to be correctly gauged, especially by an intending shareholder who can only judge from what is actually published.

In law a Balance Sheet is not 'published,' excepting to existing shareholders, and it cannot therefore be contended as being an invitation to outsiders to become shareholders. It is, I believe, an equally well-established principle of law that no action can be maintained against directors for specific damages resulting even to a shareholder capable of proving that he deliberately refrained from disposing of his holding by reason of the issue of incorrect or misleading statements of account. *Apud* the importance of this question, I had, some years ago, an unfortunate experience personally, where upon the faith of the detailed Revenue Account and certified Balance Sheet of an important fire reinsurance company I became a purchaser, at a discount, of a considerable number of shares in respect of which there was a heavy uncalled liability. In that case I was, I suppose, entitled to assume—in the absence of any established contrary precedent upon the question—that there might possibly exist a 'hidden reserve.' As a matter of fact this consideration did not at the time occur to me. I did, however, conclude that either through the medium of the general reserve fund or the Premiums Received Account, due and proper provision had been made for contingencies, also unexpired risks in respect of premiums distinctly stated as extending to a maximum period of twelve months (and in many cases less) from the date upon which these had been received.

The company went into liquidation, and it was found not only that such provision of any kind as had been made was absolutely ridiculous in its inadequacy, but that commuted premiums, extending in many cases to a long series of years, had been credited *en bloc* to the period during which they had, subject moreover to a discount, been received! The whole of the unpaid capital was called up, and the premiums demanded of the liquidator to reinsure some of the more undesirable risks for the short remainder of their currency amounted to many times the premiums originally paid to the company!

The resurrection of those unearned premiums from their 'hiding' place, and their subsequent treatment, proved a very costly function, and surely no greater justification

could be found for the necessity of reserves, if existing, being clearly shown, and their adequacy, also the class and area of the liabilities they purport to represent, thoroughly understood.

What will interest most people is to know what benefits are supposed to accrue from the 'hiding' of reserve funds, and why the variations in each component item of importance relating to successive Balance Sheets should not, where practicable, be shown step by step, and thus made to speak for themselves. Under any circumstances, a reserve fund cannot, as you suggest, be created by 'writing down' Investments, Buildings, Loans, or such items! The total of such items, as displayed in a Balance Sheet, may have been arrived at after deducting existing reserves not specifically shown; or an intangible asset, such, for example, as goodwill, may be extinguished at the expense, partially or wholly, of an existing reserve fund; or the value of an asset which has appreciated may be raised to the correct amount by either creating a reserve fund or increasing to the extent of the difference in value an existing fund of like nature. But a reserve cannot be created at the expense of that which having once existed can only be got rid of either by loss or depreciation ultimately borne by the Profit and Loss Account, extinction in the manner above indicated, or sale or disposal in the ordinary course.—Yours faithfully,

J. T. MURRAY.

10 Stanhope Terrace, Hyde Park, W."

Meetings for the ensuing Week.

Tuesday — INSTITUTE OF CHARTERED ACCOUNTANTS. — Parliamentary and Law Committee, at 3 p.m.

Preliminary Examination, 10.30-1; 2-4; 4.30-6.

Wednesday — INSTITUTE OF CHARTERED ACCOUNTANTS. —

Finance Committee, at 12.30 p.m.; Council Meeting, at 2 p.m.; Preliminary Examination, 10.30-1; 2-4; 4.30-6.

Thursday — INSTITUTE OF CHARTERED ACCOUNTANTS. —

Preliminary Examination, 11-1; 2-4.

LIVERPOOL CHARTERED ACCOUNTANTS STUDENTS' ASSOCIATION. — Lecture, "Bills of Exchange," by Mr.

A. T. Miller, at the Library, 3 Lord Street; at 6 p.m.

LEEDS AND DISTRICT CHARTERED ACCOUNTANTS STUDENTS' ASSOCIATION. — Discussion on November Examination Papers, at the Law Institution, Albion Place;

6.30 p.m.

LONDON CHARTERED ACCOUNTANT STUDENTS SOCIETY.

—Seventh Annual Dinner at the Hotel Cecil; at 7, for 7.15 p.m.

Friday. — BRISTOL SOCIETY OF CHARTERED ACCOUNTANTS. —

Paper on "Some Difficulties in Trust Accounts," by Mr. Walter Strachan, Barrister-at-Law, at the Grand Hotel, Bristol; 5.30 p.m.

Personal.

MR. S. HENSTRIDGE, A.S.A.A., announces that he has taken offices at 14 Temple Street, Birmingham, where he will in future carry on practice.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, Nov. 23rd, was 191, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 101; Deeds of Arrangement registered, 90. The respective numbers in the corresponding week of last year were: Bankruptcies, 99; Deeds of Arrangement, 91—total, 190; being an increase of 1. The total number of commercial failures recorded during the 47 weeks of the present year is 7,598; the total number recorded in the corresponding 47 weeks of last year was 8,140, showing a decrease of 542.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, Nov. 23rd, was 137. The number in the corresponding week of last year was 167, showing a decrease of 30. The total number filed during the 47 weeks of the present year is 6,874; the total number filed in the corresponding 47 weeks of last year was 7,587, showing a decrease of 713.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, Nov. 23rd, amounted to £1,267,530, by way of addition to £441,855, previously issued by the same companies. The amount registered in the corresponding week of last year was £5,805,128, showing a decrease of £4,537,598. The total amount registered during the 47 weeks of the present year was £71,405,866 (in addition to the issues in previous years by the same companies), as compared with £72,519,886 for the corresponding 47 weeks in 1905, showing a decrease of £1,114,020.

The Profession in Scotland.

COURT OF SESSION.

Edinburgh.—Outer House.

(Before Lord SALVESEN.)

Nov. 17.

J. Bryson v. W. Stevenson and others (J. Bryson's Trustees).

Trust Funds—Trustees' Duty to Invest.

In this action, John Bryson, engineer, Montreal, Canada, presently residing at 60 Quarry Street, Hamilton, sued the

trustees of his grandfather, the late John Bryson, contractor, Glasgow, for an account of their intromissions with the trust estate. An account was ordered, and ultimately the only question for decision related to the amount of interest to be charged on cash balances of the pursuers' share of the estate, which remained uninvested by the trustees.

Lord Salvesen found that the defenders were bound to pay interest at the rate of 5 per cent. The discussion in the case, his Lordship said, had been confined to the objections for the pursuer to the defenders' account, and latterly it turned out that only one objection was insisted in. That objection related to the rate of interest to be charged on cash balances of the pursuer's share of the estate, which remained uninvested by the trustees. A large part of the estate had been in the trustees' hands as a realised asset since 1891, and the whole of the pursuer's share had been in their hands since 1894. The pursuer averred that these funds were negligently left by the trustees in the hands of their law agents, who employed them in their own business, two of the members of the firm being themselves trustees. The defenders admitted that the funds were left uninvested in the hands of law agents, but they said that they personally believed that the funds were properly invested, and were yielding a revenue to the trust. There was no explicit admission as to whether the law agents used the money in their own business; but his Lordship thought he was justified in assuming that the money received by the law agents was immixed with their own funds without being ear-marked in any way, and was employed in the same way as their other capital. The liability to account for the money was admitted. It was also conceded that the pursuer was entitled to interest; and the only question was whether the rate of interest should be 3 or 5 per cent., or some figure between the two. After a review of the decided cases, his Lordship said the present case was a very unfavourable one for the trustees. They allowed the pursuer's funds to remain uninvested, and exposed to the risks of a law agent's business for from eleven to fifteen years, and they appeared to have entirely neglected their duty as to seeing that the funds were properly invested. It might be that they relied on the probity of the firm, two of whose partners were also trustees; and it was fortunate that no loss of capital had been sustained. At the same time, his Lordship thought it would be very unfortunate if such a loose method of dealing with a minor's money was not discountenanced, and he could see no hardship in persons who had used trust money for their own behoof or, what was equivalent, permitted those in their employment to do so, having to pay interest at the legal rate on the money so used. It would be most unfortunate

if trustees were permitted to cherish the belief that they might use for their own purposes funds which it was their duty to invest, and would only in the end be liable to pay interest at a rate much lower than they themselves would have had to pay for the use of the money to any bank from which it was borrowed. His Lordship accordingly found that the defenders were bound to pay interest at 5 per cent. instead of 3 per cent., with which they had charged themselves in the accounts.

Bank Rate of Discount.

April 5th 1906	..	..	..	..	..	..	3½%
May 4th ..	..	..	..	..	..	..	4%
June 21st ..	..	..	..	..	..	..	3½%
Sept. 13th ..	..	..	..	..	..	..	4%
Oct. 11th ..	..	..	..	..	..	..	5%
Oct. 19th ..	..	..	..	..	..	..	6%

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The Accountant

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TABLE "A."

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the Management of a Company Limited
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Leading Articles.

Municipal Trading and Depreciation.

IT is reported that while Mr. CARSON ROBERTS was auditing the accounts of the Southwark Borough Council a few weeks since, two councillors attended before him to enter various objections as to the manner in which the Electric Lighting Accounts were kept, and that one incidentally alleged that in connection with these accounts there was no Depreciation Fund. The District Auditor is reported to have replied to the effect that it was quite

true there was no fund called the Depreciation Fund, but to say that nothing of the kind existed was perfectly absurd. By the annual repayments of principal such an undertaking had what was much bigger—a Sinking Fund, which was a Depreciation Fund plus something else—and he went on to read to these objectors a lecture upon the impropriety of anyone suggesting that municipal undertakings were not in general conducted on sound business lines.

We have not before us the accounts of the Southwark U.D.C. Electricity Department, but inasmuch as they were not specially referred to by the District Auditor, it is to be presumed that his comments were intended to have a more general application, and to embody the assertion that, at all events in the majority of cases, the statutory Sinking Fund provided for depreciation of assets and something more. If that really be the case, and assuming Mr. CARSON ROBERTS to have been correctly reported, we can only say that his utterances prove him to have given surprisingly little thought to this important problem, or else to be unqualified to express an expert opinion with regard to it; neither of which conclusions is altogether satisfactory when we recollect that the Local Government Board Auditor represents the sole safeguard that the unfortunate ratepayer possesses against financial unsoundness on the part of local authorities.

Assuming, in the first instance, that Mr. CARSON ROBERTS took the superficial view that is unfortunately so common, and considered that so long as loans were granted for a period shorter than the average life of the assets acquired, all necessary provision for depreciation from year to year (and more) was being made by the statutory instalments of

Sinking Fund, we may point out that even upon this unsound basis the facts are, in the majority of cases, against any such conclusion. Loans for electricity purposes have, in the majority of cases, been issued to Urban District Councils for a term of forty-two years, and Sinking Fund instalments calculated accordingly, subject to the fact that they do not by any means necessarily commence to operate from the date of the loan; but, however that may be, it would be interesting to know what is the general opinion among electrical engineers as to the average life of the assets of Metropolitan Electricity Departments constructed during the past ten years. That it would, in the majority of cases, be put at anything like forty-two years we very much question, for the period was fixed at a time when really very little was known about the matter, and it is not, we believe, seriously contended that it was fixed after any careful or expert inquiry as to the probable life of the assets.

All this is, however, really beside the point. The essence of adequate provision for depreciation is that the necessary charge for renewals from time to time will be so apportioned over the years of working life that each year will bear its fair share of such charge, proportionate to the benefits it has derived from the use of the assets. There are purposes for which an average may be helpful, and there are purposes for which it is absolutely beside the point; and, so far as this question of depreciation is concerned, the average life of the whole undertaking—even so far as it is capable of being approximately computed—is absolutely beside the point. Each separate asset has its own working life, and at the expiration thereof it will be necessary to incur

the cost of renewal. Such cost of renewal can only be defrayed out of new loans to an extent equal to the provision that has in the past been made for the redemption of the loan out of which the original asset was created. Thus, supposing certain assets call for renewal (say) at the end of twelve years, when approximately only one-fourth of their original cost has been provided for out of Sinking Fund, the remaining three-fourths must then of necessity be met out of revenue, with the result that sooner or later heavy charges will fall against the year's revenue which have not been provided for in advance. When that time comes it will, we venture to think, be evident even to the least experienced that adequate provision for depreciation cannot have been made in the past.

All this, of course, is assuming that everything has been conducted with what Mr. CARSON ROBERTS would regard as the greatest propriety, but it is notorious that in some cases the annual Sinking Fund instalments have *not* been provided in the past, and that in other cases moneys lent for one purpose have been applied for another purpose; in which event it does not in the least follow that the Sinking Fund instalments are adequate, even upon the incorrect basis formulated by the District Auditor. The whole position requires careful overhauling, or there can be little doubt that sooner or later—say, in about ten years' time—the necessary charges for renewals will be found to be out of all proportion to the revenue receipts.

We are, of course, aware that in making these remarks we shall be accused of attacking municipal trading *in toto*, and of spreading alarmist reports with the sole purpose of discrediting such trading. We shall

also doubtless be accused in certain quarters of doing a very bad turn to the profession by suggesting that a competent professional audit would prove more strict than the present incompetent official audit. We can only say in reply that, sooner or later, it must inevitably be recognised that the greatest enemies of municipal trading have been those who took advantage of official imbecility to inaugurate schemes upon an unsound financial basis, which in the nature of things could not be maintained indefinitely. So long as there is plenty of money to be had, anyone can allege large profits and produce accounts showing satisfactory results; but sooner or later the supply of money will be found to have dried up, and thus the bubble will be pricked. Those who are really and honestly desirous of a considerable extension of municipal trading will, if they are wise, be the most careful to insist upon these pioneer ventures being conducted upon such sound and prudent principles that hereafter they may serve as examples for imitation, rather than as warnings to be shunned.

The Income-Tax Report.—I.

THE Report of the Select Committee of the House of Commons appointed to inquire into and report upon the practicability of graduating the income-tax, and of differentiating for the purpose of the tax between permanent and precarious incomes, has now been issued, and will be found in another column.

There is a certain amount of mystery about the announcement that the present Report is not based upon the draft of the Chairman (Sir CHAS. DILKE), but upon one submitted by Sir THOMAS WHITTAKER, and yet there is no

minority report. It seems extraordinary that, if all the members of the Committee were agreed in their opinions, it should have been thought necessary to adopt this entirely unusual, and almost unprecedented, course. Indeed Sir CHAS. DILKE's draft must have been a remarkable document if it could not have been amended into something more illuminating than the Report ultimately issued, quite apart from any question as to whether or not one agrees with the Committee's findings.

In a sense these findings are obvious enough. After deliberating for something like seven months, the Committee has come to a conclusion which probably no one ever for a moment seriously doubted, namely, that it would be practicable to extend the existing system of abatements, and to provide for further graduation by a super-tax on large incomes. Differentiation between earned and unearned incomes is, however, declared to be also practicable, especially if it be limited to earned incomes not exceeding three thousand pounds per annum. Upon this point there was, perhaps, less unanimity, and we are not altogether sure that the Report of the Committee will be regarded as finally disposing of the matter, more especially when it is borne in mind that the reference to the Committee related to permanent versus precarious incomes—an entirely different thing to earned versus unearned incomes, assuming that the latter terms be interpreted in the sense in which they are habitually employed by radical politicians.

Taking first of all the question of graduation. There is, of course, no difficulty in extending the maximum income upon which abatements are to be allowed to any desirable extent, but

the Committee seems to be under the curious impression that to grant such abatements upon larger incomes than one thousand pounds would make the tax more unpopular. By what process of reasoning it arrives at this conclusion we are somewhat at a loss to understand. Of course, no one exactly *likes* to have more tax deducted from his income than he is liable for, leaving him to get back the excess from the Board of Inland Revenue as best he can after a delay of anything between five and fifteen months; but, upon the principle that "half a loaf is better than no bread," probably most persons would prefer the concession which involved this right of application rather than no concession at all. We can quite imagine that the concession might be highly unpopular with those members of the community who at present make little or no contribution at all towards the aggregate yield of the income-tax, but that is quite a different thing from saying that the tax itself would be rendered more unpopular by being made to stand upon a firm basis. Before, however, it can be said to approach a fair basis, it is important that the graduation should extend outwards as well as upwards, so that the majority, instead of a small minority, of the self-supporting community may contribute to it, each according to his means. So long as the tax could be reasonably regarded as a war tax, levied in times of emergency upon those best able to meet the temporary strain that such times cause, income-tax payers were not over-critical as to imperfections of machinery; but now that the tax has settled down to being in times of peace a charge which, allowing for anomalies of assessment, may be anything between 5 per cent. and 10 per cent. of the available income of business men, it ought in

all fairness to be reconsidered upon an entirely different basis, and not merely from the narrow point of view of how much it can be found possible to squeeze out of an insignificant minority by the dead weight of a Parliamentary majority.

There can be no doubt that the injustice of the existing method of assessment and collection is so strongly resented that, however regrettable it may be, in many quarters it is regarded as entirely legitimate for taxpayers to do all in their power to evade what is generally regarded (and by no means unreasonably regarded) as an unfair impost. Further attempts at squeezing without any corresponding attempts at the redress of grievances are hardly likely to remove this condition of affairs; and, indeed, if the recommendations of the present Committee are passed, it seems only reasonable to suppose that the systematic evasion of income-tax will be regarded as reasonable, and will become as publicly recognised and applauded as was smuggling in PITT's time. Shortly, the only statesmanlike view to take of the matter is to acknowledge that a tax generally regarded as unfair by those who are called upon to pay it will cost so much to collect that it is not worth enforcing.

Weekly Notes.

The Post Office Savings Bank and Gold Reserves. With regard to the questions recently put to the Chancellor of the Exchequer (1) as to whether, having regard to the fact that the State carried on the business of the Post Office Savings Bank, which was practically that portion of a banking business which consisted of borrowing money repayable on demand, and was responsible for £200,000,000 of deposits, he would consider the advisability of arranging that proper reserves should be provided against these liabilities, as would be becoming in a banking community; and (2) as to whether he

would state what proportion the value of the assets of the Post Office Savings Bank bore to the liabilities; if there were any deficiency, what was the approximate amount; was such deficiency included in the figures of the National Debt, and, if not, to what extent was the correctness of the figures affected? Mr. Asquith's reply to the former was to the effect that the National Debt Committee kept such cash reserves as experience showed them to be necessary. The conditions of the savings bank business were so different from those of commercial banking that he was unable to admit any analogy between the two cases in regard to the question of reserves. As to the latter he pointed out that until two years ago it was the practice to make an annual valuation of the assets of the savings bank funds on the basis of the current market prices of the securities, and when any deficiency occurred the amount was included among the contingent or indirect liabilities of the State shown in the annual return of the National Debt. The Savings Bank Act, 1904, provided for the discontinuance of this method, and accordingly, any deficiency which it might indicate was no longer shown in the published statement of the National Debt. The Select Committee on the Savings Bank's Funds recommended this change of law, and they were of opinion that in the circumstances the valuation of assets according to market prices was incorrect and misleading. Few will surely be found to agree with the view of the Chancellor of the Exchequer, that the Government savings banks work under entirely different principles from those attached to commercial banking; and it is by no means beside the point that the writer of Banking Notes in the columns of a financial newspaper remarks that, in the event of a run on the Government savings banks, the disbursement of the small sum of one million, which is held in cash, would necessitate a resort to the Bank of England, which in its turn would have to use the bankers' balances to provide the necessary funds, thus throwing a strain upon other banking institutions.

The Law's Delays. Some idea of the congested state of legal business may be gathered from the fact that, of the 189 final appeals set down as ready for hearing in the Court of Appeal No. 1 when the present sittings commenced, up to the 24th ult. only twelve finals had been disposed of, while fifteen appeals had been entered from judgments given since the Courts met after the Long Vacation.

The New Table A. Our contemporary *The Law Journal* is apparently beginning to discover the truth of the views that we expressed when the new Table A was first issued—namely, that it is not possible for any two members of the Bar, however gifted, to formulate an ideal set of regulations for joint-stock companies without the assistance of practical business men. The particular point to which our contemporary especially directs attention is the omission of any clause directing the company to adopt a preliminary contract entered into by a trustee on its behalf for the acquisition of the property or business the company was formed to acquire. We do not know that this difficulty is insuperable, for the power in question might, we think, quite well be included in the memorandum. The point was undoubtedly an oversight, or we should have heard something about the reasons for its omission. The suggestion is also put forward that an alternative set of regulations should be formulated for the private company. This, however, is, it seems to us, getting upon more debatable ground.

The Bankruptcy Law Amendment Committee. At the nineteenth meeting of the Bankruptcy Law Amendment Committee, which was recently held under the presidency of Mr. Muir Mackenzie, evidence was given by Mr. A. O. Miles, the deputed representative of the Institute of Chartered Accountants. It is stated that numerous applications have been received by the Committee from Ireland and Scotland, but in view of the terms of the reference the Committee do not think it practicable for them to extend their inquiry beyond the administration of the bankruptcy law in England and Wales.

The Liabilities of Directors Proceeding to Allotment. The decision of Mr. Justice Joyce in *Re Kent County Gas Light and Coke Company*, which was given on the 28th ult., is of some considerable interest. In this case certain persons applied by way of motion under Section 35 of the Companies Act, 1862, asking that the Register of the company might be rectified by the removal of their names therefrom as members, and for the repayment of the moneys paid by them respectively in respect of their shares, the grounds put forward in support of the application being that the prospectus on which their applications had been based was misleading in material particulars. One of the points relied upon was that since the issue of the

prospectus, but prior to the company going to allotment, the person who had been put forward as the managing director had resigned, and we gather from his Lordship's judgment that this of itself was a good ground for the application apart from any inaccuracy in the prospectus itself. While admitting that from a practical point of view directors would not be justified in going to allotment in any case where the position had been seriously altered since the date when applications were invited, we must confess that we do not quite know by what process of reasoning his Lordship arrived at the conclusion that there was any expressed or implied undertaking that applications would only be accepted if at the moment of allotment the general position and prospects of the company remained unchanged. Speaking in general terms, this seems to us a somewhat unreasonable responsibility to throw upon directors.

The Chartered Institute of Directors.

On the 28th ult. the Duke of Argyll, K.T., the President-elect, presided at a dinner given by the Institute of Directors at the Hotel Cecil to commemorate the grant of its Royal Charter of Incorporation. His Grace was supported by the Right Hon. Lord Avebury (the present President), his Honour Judge Bompas, K.C. (Chairman of the Council), and many others. A short report of the proceedings will be found in another column of the present issue, and it is thus unnecessary for us to refer to the matter in great detail. We should like to point out, however, that the Institute of Directors, in its corporate capacity, may do much useful work in the direction of combating the extension of undesirable municipal trading. This, however, is a point that appears to have been fully appreciated by his Grace in the course of his speech.

The Institute of Actuaries.

Mr. F. B. Wyatt, the President of the Institute of Actuaries, delivered his opening address at the Hall in Staple Inn on the 26th ult. After referring to the fact that the Institute had during the past year been making valuations of the Patriotic Fund, and providing a member to sit on the Departmental Committee on Bond Investment Companies, Mr. Wyatt stated that, in return, the Institute sought a legislative definition of an actuary, and to restrain the use of the title by unqualified persons. One of the principal points in Mr. Wyatt's address was a consideration of the important events in the domain

of life assurance which have happened in America during the last two years. It was said that the scientific principles of life assurance had not been found wanting in any way, and no reflections had been cast on the actuary's capability or probity. The trouble arose through the failure of those in high places to administer properly the immense funds entrusted to their care, and it was to be hoped that American companies would adopt the English system of control by a board of directors, instead of by practically one man. Other matters referred to in the course of this interesting address were the desirability of a new investigation into the mortality of Government annuitants, and a comparison of German, American, and English methods of conducting life insurance business.

Municipal Banks. We are not easily surprised at the views expressed by our contemporary *The Municipal Journal*, but we must confess that we had expected that the comments in our issue of the 17th ult., on its idea of municipal banking conducted upon a purely paper basis, would at least have encouraged it to consider the problem seriously before continuing to urge its adoption by all local authorities. In last week's issue, however, we observe that our contemporary returns to the charge with an article by Major G. O. Warren, of Paignton. But we think, if any attempt were to be made to put his ideas into practice, a certain number of individuals would be found willing to part with money in exchange for so-called bank-notes; but whether they would find it possible to get anyone else to accept those notes in payment for goods or services supplied is another question altogether. Another aspect of the matter may, however, be put forward on which we should be interested to hear our contemporary's opinion. Does it seriously suggest that the employees of a local authority would be content to accept payment of (say) wages in municipal bank-notes. If not, how can it seriously suggest that these notes can prove of the least value for banking purposes. So long as the authority does not default, they would, no doubt, have the same value as stock certificates—that is to say, they would be saleable at a price fluctuating according to circumstances—but by what magic it is hoped that they will always be transferable at par, we must confess that we are somewhat at a loss to understand. The whole incident is, however, chiefly important as showing that the mischievous advice given by a certain

section of the press is really responsible for many of the ill-digested schemes that have been foisted upon the long-suffering public during recent years.

**Municipal
Morals.**

A correspondent writing to *The Municipal Journal* of the 30th ult. inquired whether it is legal for an Urban District Council to use the proceeds of loans in a general way, irrespective of the provisions of the several Acts under which the moneys were raised, and at the same time forwarded a statement of accounts of an Urban District Council as instancing a case in point. Our contemporary devotes the best part of a column to explaining away the incident as best it can, but concludes by saying that if and so far as sewerage loans have been used for gas-works purposes, or money has been otherwise irregularly advanced by the treasurers, the proceedings are irregular, and open to objection. This, it seems to us, is a somewhat mild way of describing what in ordinary business relations would be called a fraudulent misappropriation of trust moneys, but apparently a different code of ethics exists for members of local authorities and ordinary business men.

**Fraudulent
Bankruptcy.**

At the Sussex Assizes an undischarged bankrupt was indicted for failing to disclose to the trustee administering his estate for the benefit of his creditors securities to the value of £500, which, it transpired, had been concealed in his wife's dress. As our readers are aware, there is always a very marked disinclination on the part of juries to convict persons accused of offences under the Bankruptcy or Debtors Acts, but in this case apparently there was no loophole for escape, and a verdict of "Guilty" was accordingly returned. Mr. Justice Lawrence bound the prisoner over to come up for judgment if called upon. While fully appreciating the fact that persons who are in extreme financial difficulties will in their need do things which in their more prosperous days they would never have thought of doing, we may point out that frauds of this kind are likely to be actively encouraged by a sentence which amounts to no punishment at all following after a conviction. The insolvent debtor who is sufficiently unscrupulous and likes to run the risk can always defraud his creditors to a very considerable extent. It is difficult to understand, however, why it should be thought necessary to make the process still easier by reducing the risk to *nil*.

After-Acquired Property. With respect to the after-acquired property of a bankrupt, the facts in *Re A. Bennett* were rather uncommon. A. became bankrupt and died intestate without obtaining his discharge. After the adjudication order he insured his life for £300. His relatives knew nothing of the bankruptcy, and on his death the balance of the policy money, after deducting the costs and expenses of administration, was divided amongst the next-of-kin. The Official Receiver, on hearing of the facts, brought an action against one of the next-of-kin for the return of the share received by him. As it was impossible to contend that value had been given so as to take the transaction out of the after-acquired property theory, the Court held that the Official Receiver was entitled to succeed.

The Currency Question in the States. In *The Financial Times* Mr. W. R. Lawson has some interesting criticisms to make regarding the basis of legislation for the issue of credit bank-notes which is to be submitted to Congress in the coming session. The main points of the scheme arrived at by the Special Committee of the New York Chamber of Commerce are as follow:—

First—That National Banks with a surplus equal to 20 per cent. of their capital may, subject to Government supervision, issue credit notes up to 40 per cent. of the total amount of their ordinary circulation secured on Government bonds.

Second—That this extra or emergency circulation is to be liable to a tax of 2½ per cent. per annum for purposes of redemption.

Third—That under certain conditions not indicated in the cablegram these emergency issues may be automatically increased.

Fourth—That a further issue of credit notes up to 12½ per cent. of the paid-up capital of the banks may be issued subject to a tax of 5 per cent.

Fifth—That the law limiting the redemption of National Bank notes to three million dollars per month be repealed.

Mr. Lawson points out that the 20 per cent. surplus reserve proviso discriminates very harshly against the banks of the Far West and South, and although the ostensible object of this supplementary currency is to finance the crops, the wheat districts will only have 6 per cent. allotted to them! It is also said that if the new currency be issued up to its maximum amount there will be more National Bank paper in circulation than ever there was silver. It looks, therefore, as if

currency troubles are not yet done with in the United States, and where each party seems to be seeking its own hand, as in the present case, little real reform can be hoped for.

Bond Investment Companies' Bill. We understand that the Bond Investment Companies' Bill, which, it may be remembered, sought to draw these concerns into line with the provisions relating to insurance companies commencing business, has been withdrawn.

Trifles as Light as Air. The registration of a limited company with threepenny shares was recently referred to, but this is now capped by the reported formation of a venture under the Companies Acts with shares of the nominal amount of one penny each!

Proofs of Debt in Bankruptcy. The powers of a trustee in bankruptcy with regard to proofs of debt cannot be too often repeated. It is well-known that under these circumstances the consideration of a judgment debt can even be inquired into before a proof in respect thereof is admitted, and in *In re Van Laun; ex parte Chatterton*, notwithstanding settled accounts between the creditor (a solicitor) and the bankrupt, the trustee was held to be entitled to open up the entire account and call for details, vouchers, &c., before being called upon to admit the proof.

"Municipal and National Trading." Lord Avebury's new volume will doubtless attract a good deal of attention, and whether one agrees or not with all the views expressed therein there is much in the book which will well repay earnest consideration. The growth of municipal debt (in the ten years ended 1901-2 it increased by no less a sum than £68,000,000!), the great increase in rates, the ill-success attending certain ventures carried on by local authorities, the check thereby imposed on private enterprise—all these points are fully discussed and ably presented. Lord Avebury gives some instances of eccentricity as regards the provision for depreciation in connection with various undertakings. On electrical capital of £12,500,000 less than £20,000 was allowed; on water-works' capital of £57,000,000 the allowance was £27,000; on £24,000,000 of gas works' capital only £80,000; while £50,000 was the allowance on a tramways' capital of £9,750,000. A good point is also made

that two years' assessable value was generally considered to be the limit of prudent borrowing, but in some modern instances debt has been piled up to as much as seven years' assessable value. Most of our readers, and all prudent men, will agree with Lord Avebury when he suggests that when the debt of a local authority exceeds the rateable value by a certain proportion their Stocks should be removed from the list of trustee securities.

The Accounts of Electric Lighting Companies. At a recent meeting of the London County Council the Highways Committee reported that they had had under consideration the question of the accounts of electric lighting undertakings. It was stated that some time ago they drew the attention of the Council to the fact that in certain cases the auditor appointed by the Board of Trade under Electric Lighting Acts and Orders had pointed out that certain expenditure—e.g., for directors' and auditors' fees, salaries, and expenses of management, promotion money and interest on loans and advances—which had been debited to Capital Account should be transferred to Revenue or Preliminary Expenses Account. In these cases the companies, acting on the advice of their own auditors, had declined to comply with the Board of Trade auditor's requirements. The question has now arisen again, and in one instance the official auditor draws attention to the fact that an overcharge to Capital Account has not been corrected, and that certain unrealisable assets have been included in the Balance Sheet while the provision for depreciation is inadequate. The Council, on several occasions, has pointed out to the Board of Trade that this overcharging to Capital Account is of importance to local authorities for the following reasons: (1) in connection with the periodical revision of the maximum charges for current, as in considering in each case the question whether these charges should be reduced, regard must be had, among other things, to the rate of dividend paid by the company, and, if the capital be larger than it should be, the profit distributed would show a lower rate of dividend; and (2) in regard to the price to be paid for the purchase of the undertaking by the local authority. As there appeared to be no machinery under the Electric Lighting Acts for enforcing the objections of the public auditor, the Council had suggested to the Board of Trade that those Acts should be amended so as to be brought into line with the Metropolis Water Act, 1871, but no official action

in this direction had resulted. The Committee recommended that the Board of Trade should be again approached on the matter, particularly as to affording facilities to the representatives of the local authority having powers of purchase to discuss any questions arising on the accounts with the official auditor. In the absence of specific figures relating to these instances we do not propose to consider the matter in detail, as each case requires to be discussed on its merits. We would, however, point out that the alleged practice of overcharging items to Capital would not necessarily lower the rate of dividend, for it is on the *subscribed* capital that dividends are paid, and if Revenue is relieved of certain charges, surely there would be more profits available for distribution! This seems to us to be the mere alphabet of accountancy—we do not know how it appeals to the Highways Committee.

Current Law.

INCOME TAX.

The Countess of Shrewsbury v. The Earl of Shrewsbury.
Kekewich, J.

Held, that where annual payments have been made to an annuitant without deduction for income-tax, and such payments have fallen into arrear, the arrears may properly be paid subject to deduction for income-tax, but no deduction can be claimed in respect of the instalments already paid.—(*Times*, Nov. 28.)

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinions expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Debenture-Holders and Apprentices.

[In reply to Mr. Davies, I don't know that I am called upon to do more than say "Hast thou appealed unto Buckley?" "Unto Buckley shall thou

go," always being understood to mean thereby the *eighth*, not the sixth edition of that work. If Mr. Davies will take the trouble to refer to pp. 418-419 therein, he will see that my opinion coincides with the law as there laid down, and that it is supported by the very cases I quoted—accordingly, the painful alternative of choosing between us, set before your readers by Mr. Davies, now no longer exists.

As Mr. Davies, however, accuses me of quoting cases somewhat diffidently and of reasoning only by analogy, perhaps I ought to add a few words in justification of my methods. To deal with the last count of his indictment first. Reasoning by analogy is and must needs be widely resorted to in a legal system such as ours, founded to a large extent on case law, and in resorting thereto I am not only following an everyday precedent, but also sinning, if sinning it be, in the excellent company of Mr. Davies himself, only with this difference, that his analogues are in truth no analogues at all, for the following reasons—Section 45 of the Bankruptcy Act, 1883, belongs to that class of sections which go to swell the assets of the estate, and which have been held over and over again not to be imported into company winding-up by Section 10 of the Judicature Act, 1875. Section 41, on the other hand, deals with the distribution of assets, as to which class of sections, Smith, L.J., in *In re Leng, &c.*, p. 66, says:—"I find no case binding me to hold that the rules of bankruptcy do not apply." The two sections are therefore not analogous.

Now, turning to the first count of the indictment, my answer thereto must be that I am equally modest as a lawyer as Mr. Davies professes himself to be as a layman; and secondly, that it did strike me at the time, and does so still, that the specific provision in Section 10 of the Judicature Act, 1875, alluded to by Mr. Davies, presents a difficulty, inasmuch as an apprentice or articled clerk who has exercised his rights under Section 41 of the Bankruptcy Act is not thereby constituted a person "entitled to prove for or receive dividends." I did not, however, allude to this possible difficulty, as it had not then been raised against me. Now, however, that the point has been taken, all I can say is that the dictum of the learned Judge in *Leng's* case is quite unconditioned in any way, and is so adopted by Buckley in his eighth edition at pp. 418-419. Mr. Davies has not apparently access to the book, so I may be perhaps allowed to quote the exact words, viz.:—"The section (*i.e.*, Section 10 of the

Judicature Act, 1875) introduces into winding-up the "bankruptcy rules 'as to debts and liabilities provable' " which must be construed (at all events for winding-up purposes) to include all rules as to priorities "expressly enacted by any statute made applicable in "the event of bankruptcy."

It is also worth pointing out that Mr. Palmer, in his work on Companies, says that there is also a priority under the *Savings Banks Acts*, 1891, Section 13; 1863, Section 14. Now, on referring to these sections it will be seen that the priority thereunder is not made a provable debt, yet Mr. Palmer expresses the opinion that it has a priority in winding-up which it can only have on the supposition that my view of the law is correct.

I do not know what effect the revised version of the Gospel according to Buckley may have on Mr. Davies's mind, but for my own part, notwithstanding its support, I cannot bring myself to express more than a diffident opinion, in the direction intimated above, on the point under discussion.—OUR LEGAL CONTRIBUTOR.]

Goodwill in Accounts.

(To the Editor of The Accountant.)

SIR,—I have just read the letter of your correspondent Mr. D. W. Sinclair, in your issue of 24th November, and crave your permission to occupy a small part of your space in order to explain how the matter dealt with in Mr. Sinclair's letter strikes a lawyer who cannot pretend to any deep knowledge of the mysteries of accountancy. I would fain ask why is the answer to which Mr. Sinclair objects, wrong? To me it seems its correctness is beyond dispute. Mr. Sinclair's own solution appears to involve the obvious fallacy that the goodwill of a business must change in value with every change in the number of partners. The facts are that A. and B. pay £8,000 for the business, value the goodwill at £800, and demand £4,400 from C. for the privilege of joining the business as partner on equal terms with themselves. Now we must assume that the goodwill so valued really represents an asset saleable for the sum of £800, and not a mere artificial inflation of the capital of the concern at the instance of A. and B. Hence the sum of £800 is an unalterable quantity and cannot be arbitrarily converted into £1,200, or any other sum, by a mere manipulation of figures on paper. Nevertheless, Mr. Sinclair naïvely says, "The total

value of the goodwill must be £1,200," and then proceeds to place this amount on the assets' side of his Balance Sheet, failing to see that in so doing he is fictitiously inflating the capital of the business by the sum of £400. The absurdity of this becomes manifest if we assume that A. alone paid £8,000 for the business and took C. in as partner on payment of £8,800, for then the figure representing the goodwill would have to appear as £1,600—truly indeed a startling result! The source of Mr. Sinclair's error is the fallacious assumption that C. pays £400 as his share of the goodwill. He does nothing of the kind. What in fact takes place is that A. and B. and C. enter into partnership with a capital of £13,200, A. and B. contributing £8,800 in the form of goodwill and other assets, and C. contributing £4,400 in the form of cash. A. and B. thus acquire a two-thirds interest in the £4,400 cash, and C. a third interest in the £8,800 goodwill and other assets, making C.'s interest in the goodwill not £400, but one-third of £800—that is, £266 13s. 4d. To say, as Mr. Sinclair does, that A. and B. obtain nothing by this arrangement will not surely bear examination. They get that to which they are justly entitled, and no more; for if the partnership were dissolved on the following day, and the goodwill and assets sold, A. and B. would receive £8,800 in cash in respect of the sale of the goodwill and assets, and C. the cash balance of £4,400, minus in the case of each partner his *pro rata* (one-third) share of the costs of realisation.

Yours faithfully,

T. KERR ANDERSON, LL.B.

November 29th 1906.

(To the Editor of The Accountant.)

SIR,—I have read Mr. Sinclair's letter in your issue of the 24th inst., accompanied by an amended Balance Sheet which you say is correct. With all respect to your ruling I venture to think that the answer as given in *The Students' Telephone* is the correct one. Your correspondent remarks that A. and B. obtain nothing as their share of the £400 paid by C. I would point out that although A. and B. have paid only £8,000 each they are entitled to share profits equally with C., who has contributed £8,400.

I think we may assume that C., in joining the firm, was satisfied that the £800 added for goodwill was a fair sum, but I cannot see that there is any ground for adding another £400 merely because another partner is admitted. Supposing three additional partners had

been admitted on the same terms and paid £8,400 each we should have, on the lines of the amended Balance Sheet, a goodwill of £2,000, and Messrs. A. and B. would each pocket £600. It is not likely that any new firm would take over the business on the basis of £2,000 goodwill, and it might very well happen that the business had to be wound up and the goodwill disappeared entirely. In that event the new partners would fare badly as compared with the two original partners.

We should have:—

Sundry Assets, less Reserves	.. ..	£10,650
Add £400 from each of the new partners		12,000
		<u>£22,650</u>
Less Creditors	.. ..	2,650
		<u>£20,000</u>
Divisible between five partners	.. ..	
Each partner	.. ..	<u>£4,000</u>

But A. and B. having previously taken £600 each would come out with £4,600, whilst the three new partners would lose £400 each.

To view the matter in a somewhat different light, suppose that C. died immediately after joining the partnership. If a winding-up resulted his estate would, on your ruling, suffer to the extent of £400, whilst A. and B. would benefit £200 each. If, however, the surviving partners continued to trade, they would have to pay out C.'s representatives £8,400, the amount of his capital. In that event A. and B. would either have to refund £200 each, and consequently write off £400 goodwill, or continue to retain the £1,200 goodwill on the books; the latter course would be absurd.

I maintain that the whole sum of £8,400 paid by C. is partnership money, and no portion should be appropriated by individual members of the firm.

Yours faithfully,

H. NORMAN.

Devizes, 28th November 1906.

(To the Editor of The Accountant.)

SIR,—It is with great diffidence that, as a candidate for the forthcoming Intermediate Examination, I take exception to the amended Balance Sheet which Mr. Sinclair appends to his letter appearing in your issue of the 24th inst., and to which you signify your approval by an editorial note, but it appears to me that Mr. Sinclair is in error in his treatment of the goodwill.

It is agreed that the goodwill of the business be valued at £800 before C. is admitted as a partner. When C. is admitted he pays cash into the business sufficient to make him an equal partner, which amount is naturally equal to either of the other partners' shares, namely, £4,400.

Now this £4,400, it is agreed, is the amount necessary to make C. a one-third owner of the assets of the partnership, therefore C.'s share of the goodwill of the business is £266 13s. 4d.—one-third of £800—and when C. enters the partnership the shares of the original partners in the goodwill are reduced in proportion, as is always the case when a fresh partner is introduced.

Mr. Sinclair's treatment of the subject seems directly at variance with the fundamental principle of goodwill, for an incoming partner does not immediately create goodwill, but only pays for his share in that already made by the business.

Also to say that the original partners obtain nothing as their share of the amount introduced by C. in respect of goodwill is a statement I cannot understand, because it has been necessary for C. to introduce £400 more cash into the business to purchase his third share of the assets, which £400 is clearly a fresh asset of the partnership, so that A. and B. each benefit to the extent of £133 6s. 8d., for their respective shares in the goodwill of £400 each are, on the admission of C., converted into £266 13s. 4d. goodwill, and £133 6s. 8d. cash—in other words A. and B. each sells one-third of his share of the goodwill to C., and in exchange each obtains one-third of the additional £400 which the inclusion of the asset, Goodwill £800, made it necessary for C. to bring in.

I cannot see how Mr. Sinclair justifies the increase of the goodwill from £800 to £1,200, and, as I am anxious to learn, I shall esteem it a favour if you—who support his view—or he will explain.

Yours faithfully,

PROSPECTIVE CANDIDATE FOR THE INTERMEDIATE.
30th November 1906.

(To the Editor of The Accountant.)

SIR,—I was rather surprised to read Mr. D. W. Sinclair's remarks on the above subject in your issue of November 24th, and more surprised to find that you agree therewith. I cannot but feel that the matter has not received your full consideration.

The answer given by the *Students' Telephone* (if Mr. Sinclair has explained the question correctly) is, in my opinion, the right one, and the two correspondents who dealt with this matter in your last issue have undoubtedly the right view of the case.

The question definitely states that before C. joins the partnership £800 is to be included in the partnership assets for goodwill, thus increasing the Capital Accounts of A. and B. by £400 each. By increasing the assets by £1,200 for goodwill Mr. Sinclair upsets the terms of the partnership arrangement.

I have looked into the case which Mr. Sinclair claims to be analogous in Dicksee's "Treatment of Goodwill," and I find that it is quite distinct. Whereas the latter case states the new partner is to be admitted on his paying a certain sum for capital and a further sum for a one-third share in the business—which further sum for comparison we may put at £400, thus implying that the [goodwill is £1,200, which is divisible between A. and B.—the former case states that £800 is to be the sum added for goodwill before C. joins, and all that the new partner C. is required to do is to bring in an equal amount of capital as stands to the credit of A. and B. after the goodwill has been dealt with.

I would advise Mr. Sinclair to re-read the two cases, when no doubt the differences will be revealed; and I would be pleased if you would again look into the cases, and if you then disagree with Mr. Sinclair kindly mention same in your paper, as probably a few students would be misled by your former remarks.

Yours faithfully,

3rd December 1906.

L. A. REDDALL.

(To the Editor of The Accountant.)

SIR,—Some students might be inclined to think that the question quoted by Mr. D. W. Sinclair is dealt with by him in a manner which does not altogether lack novelty.

I must admit that I find myself in agreement with the Balance Sheet printed on p. 634, for it does appear to be based on the facts given.

With reference to the "amended" solution on p. 635, it might be asked why the value of goodwill should be increased to £1,200 when the question distinctly states that £800 is the amount at which it is to be included.

Surely one is not expected to presume that because an asset is valued at £800 when the firm consists of two persons, the value of the same asset should be

But this account, although showing the partners' Capital Accounts as equal, is obviously not intended, as it makes them odd amounts, apart from the distinct wording of the question.

I hope my comments have made this clear, *that whatever the agreed amount of the Goodwill, it has the effect of making the original partners' interests in the assets unequal, unless they are paid out their proportion of the premium paid by the incoming partner.*

I conclude with these remarks, and hope that where such debatable matters as these are under discussion Mr. Ball, as well as myself, will bear in mind the importance of the motto, "Festina Lente."

I am, yours faithfully,

December 4th 1906.

D. W. SINCLAIR.

Executorship Accounts.

(To the Editor of The Accountant.)

SIR,—I should be obliged for your opinion (with authority) on the following:—

A. B. died on June 29th, leaving investments of the nominal value of £100, quoted on that date at £107 cum. div. A dividend was subsequently declared for year ending June 30th of £5.

On the schedule being filled up some months later, would the correct method be—

Proprietary Shares of Public Companies ...	£107
Dividend declared and accrued due in respect of the above	5

or should the £5 be left out on the ground that it is included already in the quoted price cum. div.?

Yours truly,

November 30th 1906.

T. H. J.

Municipal Accounts.

(To the Editor of The Accountant.)

SIR,—Referring to the letters on the above subject which have appeared in *The Accountant* from the pen of Major-General Babbage, I fully endorse the view expressed by "A Municipal Accountant" that the majority of the Major-General's ideas on municipal financial administration are carried out in practice—if not quite in the manner in which he suggests (indeed,

some of his suggestions are almost, if not quite impracticable, and these could only have emanated from someone possessing a very superficial knowledge of accountancy).

I am entirely opposed to the suggestion that the accounts of local authorities should be kept on a basis of receipts and payments.

This matter has been fully thrashed out, and all municipal accountants are now practically unanimous in favour of "income and expenditure."

Your correspondent is apparently in favour of both Income and Expenditure and Receipts and Payments Accounts being shown in the published accounts, but what useful purpose is served by stating the receipts and the payments? In the case of undertakings of a commercial nature what the public want to know is how much profit has been made, and this *cannot* be ascertained from a statement of receipts and payments, and so long as the income and expenditure is shown I do not see any necessity for showing also the receipts and payments. I may say I have gone to the trouble of having a statement of receipts and payments prepared, so far as relates to the accounts of my own Council, but the statement has been of practically no value and certainly did not justify the additional time and trouble involved in its preparation.

Considering that a large proportion of your correspondent's ideas on this subject are already carried out in most municipalities, I fear he will have to find some other remedy for "the bitter cry of the ratepayers"!

Yours truly,

S. F. ECKERSLEY.

St. Annes-on-Sea, 3rd December 1906.

Departmental Accounts.

(To the Editor of The Accountant.)

SIR,—I shall be glad if you, or some of your readers who are conversant with Merchants' Departmental Trading Accounts, would suggest a satisfactory basis of apportioning indirect expenses over the different departments.

One of my clients carries on a large wholesale merchandise business, and hitherto the indirect expenses—such as counting-house, packing, travelling, and branch offices expenses—have been apportioned

over the several departments in the same ratio as their individual sales bear to the total sales; but the partners think this is a rather unjust method, as some of the departments which are increasing their sales are being saddled with a larger portion of expenses, while those which are stationary are consequently having their expenses reduced. I have suggested that an arbitrary percentage of the total expenses be charged to each department, such percentage to be based on an average to be worked out from the actual amounts charged during the past three or five years, but the partners do not think this would be any improvement.

There is not any "labour" basis on which expenses could be based, hence my writing you on the matter.

Thanking you in anticipation,

Yours truly,

December 3rd 1906.

DEPARTMENTAL.

Form of Accounts.

(To the Editor of The Accountant.)

SIR,—I shall be glad to know whether it is usual or more correct, in preparing accounts, to show in the "Profit and Loss Account," or in the "Profit Appropriation Account"—whichever method of showing the distribution of profit is employed—the gross amount of dividend paid to ordinary shareholders, or the net amount after deducting tax, presuming the dividend is paid less tax. Also I shall be glad to know whether, when the dividend is paid free of tax, you would show the amount of dividend plus tax.

It is, of course, understood that if the amount of tax paid on dividends distributed is debited with such dividends to the Profit Appropriation Account the credit for the amount will be in reduction of income-tax chargeable before arriving at the balance of profit.

Thanking you,

I am, yours faithfully,

INCORPORATED ACCOUNTANT.

4th December 1906.

Secret Commissions.

(To the Editor of The Accountant.)

SIR,—A little while back you printed the Secret Commissions Act, which comes into force on 1st January

next, but I have not noticed that you have dealt with the matter in its bearing on audits.

We all know commissions have been paid by many companies in the past, but after this Act comes into force will it be safe for auditors to pass such items of expenses?

The payment of a secret commission becoming a misdemeanour would become, would it not, a misappropriation of funds?

Yours faithfully,

1st December 1906.

Z. A.

Floating Charges and Equitable Mortgages.

(To the Editor of The Accountant.)

SIR,—Referring to your note on above subject at page 657 of this week's issue. The judgment in the case of the *Standard Rotary Machine Co., Ltd.*, appears to me to be very far-reaching. Apparently the effect of it will be, if a company finds itself in difficulties, the directors can mortgage all the floating assets (notwithstanding the prohibition in the debentures against doing so), and when everything is sold up, save the premises and fixed machinery, put the company into liquidation, when probably the most valuable portion of the debenture-holders' security is gone. This will, to my mind, make debentures a very unsafe security instead of being (as heretofore considered) the soundest kind of investment.

If the registration of mortgages and charges under the Companies Act, 1900, is not sufficient notice (available as the records are to anyone who cares to enquire), it would seem as if this portion of the Act was only intended to protect creditors, leaving the poor debenture-holders to look after themselves.

Yours faithfully,

1st December 1906.

R. A.

Income Tax.

(To the Editor of The Accountant.)

SIR,—I think your correspondent "Enquirer" rather misses the point in his interpretation of the Act as it affects life insurance, and I do not think the illustration he adduces is quite correct.

It appears to me that the intention of the Act is clear enough—that while the premium for life insurance is an allowable deduction *after* the amount for assessment has been ascertained, it may not be treated as a charge upon the *profits* of the business.

I should say that in the second case supposed by your correspondent, there would be *no* tax to pay, as the £5 otherwise taxable would be more than absorbed by the £6 insurance premium.

Yours faithfully,

London, 1st December 1906. SAML. WM. FLINT.

Suspension of Articles.

(To the Editor of The Accountant.)

SIR,—I am very much obliged for the information conveyed in your issue of the 24th ult. and the 1st inst.

I agree to the fullest extent in all that you say, and no doubt from a common-sense view of the matter your remarks are applicable to a boy fresh from school, but the facts of my case are as follow:—

I entered into articles, not in the capacity of a boy fresh from school, but having had an all-round office experience abroad over a period of three and a-half years, and the concession of time—viz., an hour less than the usual office hours—made in my case was not to check the feeling of confinement of office life, but to obtain an experienced man at a salary next to nothing.

Yours faithfully,

3rd December 1906.

FAIRPLAY.

[We do not grasp the last part of this letter.—ED. Acct.]

Disfranchisement of Companies.

(To the Editor of The Accountant.)

SIR,—I should be glad if you or some of your readers would inform me if the chairman of directors of a limited company is entitled as such chairman to a municipal and parliamentary vote.

Yours faithfully,

29th November 1906.

NOVICE.

[Surely our correspondent must know that he is not?—ED. Acct.]

Certificates as to Profits.

(To the Editor of The Accountant.)

SIR,—Your issue of the 26th May 1906 contained a criticism of the Kent County Gas Prospectus in which was a certificate given by a Chartered Accountant. Would it be wasting your valuable space if you were to emphasise the point raised in the issue above mentioned, in view of the present actions against the Kent Gas, &c., Company?

I am sure it would be of general service to the profession if you were to devote a short article to it again.

Yours faithfully,

29th November 1906.

COSMOS.

Touting.

(To the Editor of The Accountant.)

SIR,—I enclose a cutting from to-day's issue of the *Bristol Daily Press*. I should be glad of an opinion from you or any of your readers as to whether advertising of this description is strictly in accordance with the etiquette of the profession.

I am, yours faithfully,

December 1st 1906.

A BRISTOL A.C.A.

"Experienced London Chartered Accountant (now in Bristol) can immediately undertake Temporary or Permanent work in district, for profession or otherwise: Auditing, Bookkeeping, or Investigations. Income Tax Recovery Expert."

(To the Editor of The Accountant.)

SIR,—The enclosed newspaper cutting explains the ingenious method employed by an Incorporated Accountant in this district to advertise himself to the world at large and the boot trade in particular.

He even goes a step further than this, for not being quite sure that every boot manufacturer may have read this important letter, and fearing that in consequence they (not *he*, of course) may be losers thereby, Mr. Incorporated Accountant has had this letter printed as a pamphlet, and sent a copy to every manufacturer in the district.

I do not know what impression such a letter would make on the mind of a man in a large way of business, but I should imagine that when first reading it he would

fancy, by the style and tone of it, that he was reading a letter written by some workman in the boot trade who had been attending night school.

I thought, Mr. Editor, it might be of interest to some of your readers, but I do not think you ought to give the gentleman another gratuitous advertisement by publishing his name.

Yours, &c.,

December 1st 1906.

LEGION.

INCOME-TAX ASSESSMENTS.

(To the Editor of ———.)

"Sir,—As appeals against the above are just now the order of the day, I should like to take advantage of the opportunity of bringing home to the minds of your numerous readers, through the medium of your columns, in what sense this very important question of income-tax, under Schedule D, payable on the profits of a business, affects them. To begin with, knowing what the state of the leather market has been for a long time past, and what chance manufacturers have had of making such profits as they get the credit of making, I would ask how many manufacturers are there in business to-day who are paying this tax, and who, if only the true facts were ascertained, ought not to pay anything like the amount they are paying, while a good proportion ought not to pay anything at all. Why do they pay it? One of the reasons is that they do not know any way out of it, and they consider paying the easiest method of getting rid of the matter. Others will pay rather than have their books 'gone through,' as they term it, while a certain section pay because they consider they are (under their present assessment) still on the right side of the hedge. Are they? Perhaps! They hug the notion to themselves that they are, but do not let them be too certain about it. I might convince some of them to the contrary. The result of their trading might reveal something totally different to being on the right side of the hedge. Further than this, the assessment does not stop where it was last. It keeps creeping up, and up, and up, and sooner or later you consider they have got you, and at last you squeak. Then what does it mean? If you are not prepared to pay just as you have done in the previous years—that easy way I have referred to—you kick against the assessment, and in the end, finding talking and argument to be useless, you have to give proper Trading Accounts to the authorities and prove to them conclusively what your business is really doing before you can get it knocked down to its correct figure. This might just as well have been done at first, and probably have saved both money and annoyance. I do say this: If you are not making the amount of profit you are assessed at, don't pay it. Why should you? Set to work and find out what you

should pay on. Where is the sense of a man paying for what he has not had? You would scarcely pay for goods you do not get; you would never dream of taking out a licence for a carriage or a dog if you did not keep one. Then why pay on profits you do not make? If I may advise the readers of the *Journal*, let them go to someone who understands the boot trade and have their books and accounts put in proper form and regularly audited. They need not then pay duty on any supposed or estimated profits any more, while the figures will be advantageous in many respects, not the least of which is the fact of showing them where and how they stand from time to time. It would be a means of saving them money and such a lot of worry. It is quite a common thing to get these assessments reduced, and sometimes wiped out altogether. I could give many instances, but professional secrecy precludes my entering into particulars. One thing is absolutely certain: A few guineas a year spent on an audit and in the complete overhauling of one's books is a tip-top investment, and saves itself over and over again.—I am, Sir, yours faithfully,

—————,
Incorporated Accountant and Auditor."

Prevention of Defalcations.

(To the Editor of *The Accountant*.)

SIR,—Replying to the enquiry of your correspondent "A. B." last week, under the above heading, it is quite common for auditors to ascertain the correctness or otherwise of customers' accounts by having statements of account sent to the various firms appearing in the Ledgers; and it is obvious that where the number of customers is very large, such a check is essential. The method of having the statements sent to the auditor's office to be sent off is not sufficient, for it would be as easy for an official to withhold statements in this case as in the other which "A. B." relates.

The only thorough way, to my mind, is for the auditor, with an assistant, if possible, to attend on the day following the one to which the statements refer, when the statements, having been made out and envelopes addressed on the evening before by the staff, will be checked with each Ledger Account.

A schedule will be made of the amounts as they are checked, and each statement put up in its corresponding envelope with the circular, asking that discrepancies be notified to the auditor direct.

It is important that these be kept in the auditor's custody and posted by him.

Had this method been adopted by the firm which "A. B." refers to, the frauds could not fail to have been discovered, or perhaps even prevented.

Yours faithfully,

3rd December 1906.

NEWCASTLE.

Licensing Act, 1904, and Income Tax.

(To the Editor of *The Accountant*.)

SIR,—Referring to Messrs. Rawlings and Wilkinson's letter, the Surveyors of Taxes have declined to allow the compensation levy, and I understand that the Brewers' Society is likely to take the matter up.

Mr. Danckwert's opinion is based upon *Brickwood v. Reynolds* (11 *Brewing Trade Review*, 1897, p. 389).

This compensation levy differs from repairs to tied houses, inasmuch as the latter are supposed to be covered by an allowance of one-sixth under Schedule "A."

When the Act of 1904 was passed it was clearly understood to be a tax upon the trade, and the whole of it is an expense necessary to carry on the trade. Clause 2 of the Act states that it is "as part of the duties on the corresponding excise licence." If the whole of the compensation were paid by the tenant therefore, he could deduct it, but as the Act only saddles a part of this duty on the tenant, the landlord has to bear the remainder.

If the brewery companies traded only with free houses a discount of about 25 per cent. would have to be allowed, and such allowance would not be disputed by the income-tax authorities.

4th December 1906.

DANIEL HILL.

The Accountants' Magazine and Lectures to English Societies.

(To the Editor of *The Accountant*.)

SIR,—Our attention has been called to a statement affecting us in your issue of 24th November, under the heading "A Warning to Lecturers," which is not quite accurate. When we accept a contribution for this magazine we usually, if agreeable to the author, acquire the right of publication by payment of a fee.

When the author does not accept remuneration we do not seek to enforce copyright.

Yours faithfully,

THE EDITOR OF THE ACCOUNTANTS' MAGAZINE.

Edinburgh, December 4th 1906.

Solicitors and the Interests of their Clients.

(To the Editor of *The Accountant*.)

SIR,—It may interest some of the readers of your journal to know what goes on in the accountants' profession, if it may be so termed, by our giving you a recent experience. We have been auditors of a large firm's accounts here for over thirty years, and the principal has just died, leaving perhaps more liabilities (amongst which is a bill of ours for over £100 for audit fees) than assets. A few days prior to the death the solicitors to the estate sneaked in another accountant, pretending he was representing the estate of a late brother to the said principal, but as a matter of fact he was employed by the said solicitors to prepare the accounts for probate, a part of our audit work still remaining unfinished; in each case the wife has been left executrix, consequently under the thumb of their lawyers, who have met a ready response from a so-called Chartered Accountant here, who has the reputation of losing no opportunity of getting work "somehow."

The family in question is related to our senior by marriage, and they are on the most friendly terms. The estate requires all the assistance it can get, funds being short even to the extent of feeling an accountant's bill of a few hundred pounds, which our firm, under the adverse circumstances, would have gladly conceded. The family now ask us to renew our bill, for the solicitors dare not. Do you think we are wrong in declining to do so until the extraordinary conduct of the solicitors and accountant is explained?

Perhaps the Institute of Chartered Accountants would like to know the name of this oracle; if so, I shall be quite prepared to furnish it through you.

Yours obediently,

CHARTERED ACCOUNTANT OF 1880.

December 4th 1906.

The Institute of Chartered Accountants in England and Wales.

At a special meeting of the Council, held on Wednesday, the 5th December 1906, at the Hall of the Institute, Moorgate Place, E.C., there were present:—

Mr. W. B. Peat, President, in the chair; Mr. J. B. Ball, Vice-President; and Messrs. W. Ashworth, J. W. Barber, J. H. Blackburn, W. Blease, E. M. Carter, Ernest Cooper, Sir John Craggs, Sir Walter Fisher, Messrs. J. Ford, John Gane, A. H. Gibson, T. Gregory, J. G. Griffiths, J. E. Halliday, B. W. Hardcastle, J. S. Harwood-Banner, M.P., A. C. Harper, F. A. Jenkins, H. Woodburn Kirby, G. Walter Knox, J. Mather, A.O. Miles, F. W. Pixley, F. J. Saffery, G. Sneath, W. A. Stone, J. M. Wade, E. Waterhouse, T. A. Welton, F. Whinney, I. W. Woodthorpe, and F. J. Young.

The following persons ceased to be members of the Institute:—

Mr. Frank George Robertson, A.C.A., 11 Fraser Building, Montreal.

Mr. Henry John Rush, A.C.A., 102 Clive Street, Calcutta.

At the ordinary meeting of the Council, held at the conclusion of the special meeting, a suggestion from the Northern Institute of Chartered Accountants that the Autumnal Meeting, which will be at Newcastle-upon-Tyne in 1907, should be held on the 3rd, 4th, and 5th October, was agreed to.

The Secretary reported the death of Mr. J. E. Gunn, F.C.A., Cardiff.

Some Recent Additions to the Library.

Purchased.

Encyclopædia of Accounting. Edited by G. Lisle, C.A. Vol 7 (Forms and Precedents). Edinburgh: 1906.

The Accounts of Executors and Trustees. By P. W. Chandler. Two vols. London: 1906.

Bookkeeping for Accountant Students. By L. R. Dicksee, F.C.A. Fifth Edition. London: 1906.

Accountancy. By P. Bates. London: 1906.

Principles of Bookkeeping applied to Lawyers' Transactions. By T. J. Millar, C.A. Edinburgh: 1906.

The Solicitors' Clerk, Part II. [including Bookkeeping, Trust Accounts, &c.]. By C. Jones. Fourth Edition. London: 1905.

Friendly Societies' Report for 1905. Part A.
Palmer's Index to *The Times*, July-September 1906.
Parliamentary Debates. Vol. 12 of 1906.

Presented by the Council.

Supplement to the Catalogue of the Library of the Law Society, 1891-1906.

Presented by the Authors.

How to Read a Balance Sheet of a Commercial Concern.
By F. W. Pixley, F.C.A. London: 1906.

Bookkeeping for Farmers and Estate Owners. By Johnson M. Woodman, F.C.A. Fourth Edition. London: 1902.

Presented by Daniel Hill, F.C.A.

Revue économique internationale, Vol. 4, No. 1,
[containing "Les sociétés anonymes en Angleterre,"
by John Paterson]. 1906.

Presented by W. H. Hutchinson, Borough Accountant.

Borough of Colchester Abstract of Accounts, 1905-6.

The Chartered Accountants' Benevolent Association.

THE Honorary Secretary of the Benevolent Association sends us a first list of subscriptions and donations which he has received as a result of the special appeal to the members of the Institute, which was made last April by the President of the Association (Mr. Edwin Waterhouse, F.C.A.).

This generous response is extremely satisfactory; but unfortunately the increased demand on the funds of the Association still continues, and it is hoped that the Christmas season may not be considered to be an inopportune one in which to appeal to those who have not already replied to the President's letter to remember the wants of those who have been brother professional men, or of their widows or orphans.

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THE COMPANIES' DIARY AND AGENDA BOOK. 1907. Jordan & Sons, 120 Chancery Lane, W.C.—This particular diary is compiled mainly for the use of secretaries, directors, and other company officials, and contains a large amount of special information relative to their duties and on questions of daily occurrence. The size of the book is foolscap folio. The diary portion has now been extended so as to give three days on each page, instead of a week as heretofore. A quire of ruled paper for agenda, rough minutes of proceedings at meetings, and for use as a general note or record book, is included, and a few specially-ruled pages are provided for memoranda and reminders of a permanent nature.

The Chartered Accountant Students Society of London.

The Duty and Responsibility of Auditors with regard to the item "Stock-in-Trade" on a Balance Sheet.

By CYRIL F. BIRD, A.C.A.

A MEETING of the London Society was held at the Institute on Wednesday, 24th October 1906, when the prize essay in connection with the Junior Essay Competition was read by the successful competitor, Mr. C. F. BIRD, A.C.A. Mr. A. O. MILES, F.C.A., who had acted as arbitrator, took the chair. The following is the text of the prize essay:—

Although, particularly to those versed in accountancy, it may perhaps appear superfluous to give a definition of a Balance Sheet and Stock-in-Trade, yet in order to discuss properly the matter suggested in the title to this paper it has been thought as well, if not indeed necessary, to give a definition of both these terms, and that particularly for the obvious reason that in order to discuss, comment upon, or define the duty and responsibility of anyone with regard to any particular matter or subject it seems essential to have from the outset a clear idea of what such matter or subject is or comprises.

A Balance Sheet may be said to be a statement showing the financial position of a concern according to the books of account of that concern. It need hardly be said that the books of account should be so kept as to show as nearly as is humanly possible the *true* financial position of the concern, in which case the Balance Sheet should be a true reflection of such position.

That portion of the goods purchased or acquired by a trader or trading concern for trading purposes (*i.e.*, for intended sale) remaining unsold at any particular date may be termed the "stock-in-trade" of such trader or trading concern at such particular date. Trader or trading concern includes a sole trader, a partnership, or a company. By goods is meant merchandise, whether existent as raw material or as manufactured or partly manufactured material, either on the hands of the proprietor or proprietors themselves, or in the hands of agents or consignees for sale by them for such proprietors.

Having arrived at the above definitions of the item "Stock-in-Trade" and a "Balance Sheet," the determinable issues in this paper may be considered to be: To what extent are auditors responsible for the correctness of the

value placed upon or against this item (Stock-in-Trade) on this statement (Balance Sheet), and what is their duty with regard to the checking and verification of the amount taken credit for in such statement in respect of the value of such item?

Generally, an auditor's duty with reference to a Balance Sheet, as voiced by the Courts and endorsed by the accountancy profession, is to certify that such Balance Sheet is correct according to the books, having first used reasonable care and skill in ascertaining not only that the Balance Sheet agrees with the books, but that the entries in the books correctly show the true financial position. Naturally, this duty extends, broadly speaking, to every item in the Balance Sheet, including "stock-in-trade." It is necessary, however, to discuss an auditor's duty and responsibility with reference to this particular item much more fully, and for this purpose the discussion will be divided into two parts, *viz.*:—

- (a) The legal aspect.
- (b) The commercial or professional aspect.

The reason for so dividing the discussion is this: In matters of account an auditor's bare limit of duty and responsibility may be defined by law, but such definition may be opposed to what an auditor considers to be his conscientious and proper duties and his personal, professional, or moral responsibility connected with the performance of his duties. Apparent failure in duties from the point of view of general professional opinions and sound commercial principles may not be open to question as involving liabilities from a strictly legal point of view.

The legal aspect of this subject has been defined by two cases, the *Kingston Cotton Mill Company, Lim.*, and the *Irish Woollen Company, Lim. v. Tyson and others*. It will be as well perhaps to give a short outline of each of these cases before showing the resultant legal idea of an auditor's duty and responsibility with reference to "stock-in-trade."

In the first case the Official Receiver as liquidator of the Kingston Cotton Mill Company, Lim., took out a summons against the directors and auditors of the company to obtain a declaration from the Court that such directors and auditors were liable to make good to the assets of the company moneys of the company improperly applied in payment of dividends, on the ground that such dividends were paid on the faith of certain Balance Sheets drawn up by the directors and certified by the auditors. The only part of the case that need be mentioned here is the one that bears directly upon this subject, which is that one of the grounds upon which the Official Receiver contended that the auditors were liable was that the value placed

upon the item "stock-in-trade" in the Balance Sheets was infinitely larger than the realisable value of such stock as actually existed at the dates of the Balance Sheets. The facts of the case, as given by Lord Justice Lindley, were these:—"For several years the manager, for the purpose of making the company's position appear more favourable than was actually the case, deliberately exaggerated the quantities and values of the company's stock-in-trade represented by cotton and yarn. Particulars of this stock were entered in a Stock Journal, which purported to show the quantities and values of such stock under various heads at the end of each year, and a summary showing the total value of all the stock. This summary was signed by the manager, and the value as shown by it was adopted by the auditors and taken by them as the value of stock-in-trade for insertion as an asset in the Balance Sheet, but 'as per manager's certificate.' The summary always corresponded with the accounts summarised, and the auditors ascertained that this was the case."

Lord (then Mr.) Justice Vaughan Williams decided that, although the directors were not liable for relying upon the statements of their manager, the auditors were so liable. Against this decision the auditors appealed, and the Appeal Court Judges, consisting of Lords Justices Lindley, Lopes, and Kay, allowed the appeal, reversing the decision of Lord Justice Vaughan Williams.

Lord Justice Vaughan Williams, in his decision, evidently came to the conclusion that the books and returns relating to the stock were so kept as to be capable of arousing, and that in fact they should have aroused, the suspicion of an auditor examining them, and that the auditors who did examine them were guilty of want of reasonable care and of failure in their duty in not having their suspicions aroused.

Lord Justice Lindley came to the conclusion that the circumstances of the case were not such as to arouse suspicion or demand further inquiry, and that consequently the auditors were not wanting in reasonable care, or guilty of failure in their duty in not becoming suspicious and making further inquiry, and in not considering it necessary, in this particular case, to check the manager's returns, but relying upon such returns made by one whom they, the auditors, reasonably believed to be a competent and trusted expert.

It is rather difficult, and perhaps a little presumptuous, to express any opinions on these decisions in consequence of only being able to judge the merits of the case from a perusal of newspaper reports thereon, which makes it impossible to enter fully into the circumstances and weigh all the evidence pro and con. Consequently it is not

proposed to go into any very lengthy discussion of the case.

The present writer holds, and it is thought that the same opinion is held by the profession generally, that Lord Justice Lindley's decision was essentially a wise and just one, and both in a general way and as regards this particular case a fairly accurate idea of an auditor's duties as to stock-in-trade.

It would seem from these remarks that the legal and professional aspect of this subject are not in conflict; from which it might appear, having regard to previous remarks made as to the reason or desirability of discussing these aspects as distinct and separate, that no very good purpose is served in so dividing the discussion. Opinions, however, invariably differ, and it is quite possible that some of the profession may consider that in this particular case the judgment of the Appeal Court did not accurately express what should be an auditor's duty and responsibility generally with reference to this subject. For this reason, and for another more important one now to be mentioned, the case has been discussed.

Apart from the difference between what in this case may be considered professionally right and what may be considered legally right, and apart from its individual merits, upon which opinions may or may not differ, its importance to the profession is that portion of Lord Justice Lindley's judgment bearing directly upon the duty and fixing the responsibility of auditors as to stock-in-trade generally or universally rather than in individual cases. This portion of his Lordship's judgment may be given in his exact words:—"The auditors did not profess 'to guarantee the correctness of this item (stock-in-trade). They assumed no responsibility for it. They took the item from the manager, and the entry in the Balance Sheet showed that they did so. I confess that I cannot see that their omission to check his returns was a breach of their duty to the company. It is no part of an auditor's duty to take stock. No one contends that it is. He must rely on other people for details of the stock-in-trade in hand."

In these words we have a legal definition of an auditor's duties and responsibilities, which, quite apart from whether or not such definition is in accord with professional opinion generally, must be, and is, of paramount importance to an auditor, and that for the reason that it is the means of granting him protection and freeing him from responsibility in cases where he has used what is considered reasonable care and skill in the performance of his duties and has yet failed to detect fraud.

Lord Justice Lopes, in his judgment, gave a general idea of an auditor's duties, equally applicable, and

intended so to be to this item of stock-in-trade. The resultant idea of his judgment was that an auditor is not bound to be more than reasonably cautious and careful, and where there was nothing to excite or arouse his suspicions he was justified in accepting statements made by tried servants of a company; but if there were anything calculated to excite his suspicion, he should probe it to the bottom.

With reference to the second case, the *Irish Woollen Company, Lim. v. Tyson and others*, as the general effect of the decision of the Court therein was essentially the same as that of the Court in the *Kingston Cotton Mill* case, it does not now seem necessary to discuss it; it would, too, seem, to a certain degree, futile to discuss it on its individual merits, for the same reason as given previously relative to the first case, and because circumstances so largely alter cases that no one case can necessarily be deemed a precedent for any other case or for general law; moreover, decisions in an Irish Court (in which this second case was tried) are not legal precedents in England.

In summing up the foregoing remarks, the general effect of the legal decisions as to auditors' duties and responsibilities with regard to stock-in-trade would appear to be that, where there is nothing calculated to arouse their suspicions, they are justified in relying upon statements made by and certified by properly authorised and competent servants, provided perhaps that they take the precaution to convey that they do not accept responsibility for the value placed upon the stock by the insertion in the Balance Sheet of the words "as per So-and-so's certificate" against this item. That, at any rate, they must use reasonable care, skill, and diligence with reference to the insertion of this item. That it is no part of their duty to take stock, and that they do not in any case guarantee the value placed upon the stock, and, consequently, if reasonable care and skill are exercised, they are not responsible for such valuation. It might be said here that with this view, broadly speaking, commercial and professional opinions are in agreement, but as to this further comments will be made later.

It should be noted that the legal aspect of this subject gives a general idea of an auditor's duties rather than shows, as perhaps it hardly could, what actual detail work an auditor should usually perform to discharge his duties, and what questions of principle, if any, there are for his consideration. In the treatment of the professional or commercial aspect of the subject, it is considered that this paper would not be complete unless at least a general idea of such detail work was given, at the same time not losing sight of the broader principles involved; and in this respect the necessity of giving the definition of Stock-

in-Trade, which was done in the earlier part of the paper, will, it is hoped, be both apparent and appreciated.

It cannot be contended even from a legal point of view, and most emphatically not from a professional one, that no detail work need fall upon an auditor with reference to stock-in-trade. It might be contended from a legal point of view, although this appears doubtful, that no questions of principle as to the valuation of stock-in-trade fall upon an auditor for his decision, approval, or consideration.

From a professional point of view it is thought that an auditor should satisfy himself broadly that the general principles of the valuation of stock are not lost sight of, which brings one naturally to the question, "Upon what principle should stock-in-trade be valued?"

A fair answer to this might be "Stock-in-trade should be so valued that the value placed upon it represents as nearly as possible the cost price of the stock, subject to any depreciation that may have taken place."

However, before dealing with an auditor's duties with reference to any question of principle, it will be first shown very shortly what actual detail work should be performed by others than the auditor, and then how much of such detail work the auditor should himself check in detail.

Keeping clearly in view the definition of stock-in-trade, the first absolutely necessary detail work with reference thereto is that proper Stock Books should be kept and periodical Stock Sheets prepared, in which should be entered accurate quantities, according to the nature of the stock in measures and weights, together with correct prices, which should be taken from the invoices of purchase. This book, or separate subsidiary books, should show the values of stock on hands of consignees or agents in similar manner, and usually separate books should be kept for raw material and manufactured material. Due allowance for depreciation caused by actual damage to the stock, or by its becoming less valuable by reason of its being old-fashioned and out of date, should be recorded in the Stock Books. If the business consists of various departments, or branches, each department or branch should keep separate Stock Books on similar lines. It is beyond the scope of this paper to enter into any further consideration of the detail work to be performed by other than the auditor, or to show any systems of Stock Books or stocktaking, which vary according to the nature of the particular business carried on.

In dealing with an auditor's duties in detail in this manner it must likewise be fully recognised that the

remarks made are necessarily of general rather than particular application.

An auditor's duty as regards actual detail work is to see that proper Stock Books are kept, and to check fairly exhaustively the additions and extensions of such books; to compare some of the prices with original invoices and note that the prices on the invoices are cost price, also noting whether such prices differ to any great extent from the current or market price, in which case allowance should be made; and to check the entries with reference to stock at departments or branches, or in hands of consignees or agents, and generally to see that the stock is actually the portion of goods remaining on hand and *unsold* at the close of the period in question.

Coming now to questions of principle, some of which are perhaps as much questions of fact and detail work as of principle. The chief point for the auditor's consideration is to see that the valuation is substantially correct, and not over-stated. Here, again, any remarks made are to be taken as of general application.

An auditor should, of course, fully recognise that the accuracy of the Profit and Loss Account depends upon the accuracy of the stock-in-trade.

He should ascertain that the Stock Books generally have been subjected to a good internal check—*e.g.*, amounts and quantities entered by one person, priced by another, checked by another, and re-checked and certified by some responsible person. He should satisfy himself that all actual items of stock are brought into account, and particularly that purchases of a later date have not been included in stock, and that if stock is charged with any goods properly applicable to the period in respect of post-dated invoices that the corresponding liability to the persons from whom the stock is purchased is shown. He should see that the sales do not include items that are in reality stock items; for instance, goods sent out on approval, which are, of course, stock until actually sold, might be treated as sales. He should desire that heads of any departments, or managers of branches, should be made responsible for their individual stock-taking, and that they should sign their Stock Sheets, certifying the same as correct. With reference to manufactured and partly manufactured goods, the value taken therefor in the Balance Sheet will usually include the cost of production. The auditor should satisfy himself, as far as he can, that this cost of production includes only those items of expenditure properly chargeable thereto, and properly incurred in their production, which expenditure should preferably be only that for materials, wages, and actual manufacturing charges, usually termed the prime cost. Depreciation should be carefully noted. This may arise

in consequence of the stock being on hand for an exceptionally long period, causing thereby actual shrinkage in its value, or it may arise through damage or obsolescence, causing inability to sell at previous prices. With reference to the stock on hand at the commencement of the period, although an item not inserted in the Balance Sheet at the end of the period, the auditor should see that the amount corresponds with that inserted in the last certified Balance Sheet.

Mention has previously been made that an auditor should see that all actual items of stock are brought into account, and that none such have been wrongly treated as sales, goods out on approval being cited as an instance of this happening. Another instance might usefully be mentioned here as showing how an auditor should be on the look out for deliberate fraud and take precaution against same. At the end of the period large quantities of goods might be invoiced to apparently *bond fide*, but in reality fictitious, purchasers for the purpose, and with the idea of treating such goods as sales, these goods being treated as returns after the closing of the books. The effect of this would be that a portion of the stock, instead of being treated as stock and taken at cost price, would be treated as a sale, and consequently loaded with a profit that had not been earned. Profits, therefore, would be over-stated, although the stock would be under-stated. The auditor should therefore see, as far as he can, that the sales at the end of the period are comparatively normal and *bond fide*.

It is sometimes the practice to take credit in the Profit and Loss Account for what are known as "Sales for future delivery"—*i.e.*, sales in respect of orders given some time in advance of delivery. Where profit is taken credit for in respect of such sales, the goods should, of course, be actually in stock. Where this is the case, and where the date of future delivery is a date after the close of the financial period, the auditor should be careful to note that the item Stock-in-Trade does not include any of these goods. Being treated as sales for the purpose of the Profit and Loss Account, they should be regarded, although in stock, as goods that have gone out of stock.

Goods in hands of consignees or agents should be taken at cost price and not at selling price, although these goods are frequently invoiced to the consignee at selling price. The auditor should see that the cost price is taken. The Stock Accounts kept may be of home stock only, and to this, for Balance Sheet purposes, might be added the value of the balance of goods on consignment, based upon the amounts at which they were invoiced to the consignee or agent—*viz.*, the selling price.

Having made these few general remarks upon questions of principle, &c., it is now proposed to mention a few

systems of tests which an auditor can usefully employ, although not necessarily compelled to do so, for the purpose of ascertaining that the stock is as nearly as possible accurately stated. Much of this work, for the want of a better term, might be called detective work. An auditor could examine the Stock Sheets with those of past periods, in order to compare the prices, and to see that obsolete stock is not included at the same value. He could also compare the ratio existing between the stock and the sales of the present with the past periods. A very good plan, which enables an auditor to check roughly the amount of the stock, is to deduct from the sales for the period the estimated gross profit and to subtract this figure from the total of the purchases for the period and the opening stock. This, of course, only gives a rough idea of the stock at the end of the period, but it is often found very useful as a rough check. It is also useful to compare the percentage of gross profit or turnover with that of previous periods, and to see that such percentage is not abnormal and is such as is at least possible in the particular trade. The importance of this was evidenced in the *Kingston Cotton Mill Company* case, in which, had this been carefully noticed, it is quite possible that the frauds perpetrated would have been discovered. A rough method of calculating the cost of production of manufactured goods is by deducting a percentage or discount from the selling price, this percentage being based upon and similar to the percentage of gross profit to total production of previous periods. It should be noted that this only gives an approximate cost, as, of course, percentages such as these vary.

In concluding this aspect of the subject it is thought that at any rate the remarks as to the detail work necessary to be done, and the broader questions of principle, &c., that should be noticed, are certainly not more than what, in the opinion of the accountancy profession and business men generally, auditors should consider their duties with reference to stock-in-trade, and it should be added that these remarks apply equally to auditors acting for private firms, on behalf of creditors, or for limited companies. In all these cases they should do their duty regardless of the possibility of being able, without risk of liability, to limit such duty or shirk it.

With reference to the tests mentioned, the writer does not wish to contend that it is absolutely incumbent upon auditors to employ these, although it is generally conceded by the profession that a diligent and capable auditor will often do so. They may possibly appear to be beyond the scope of an auditor's work, and in practice they may often be found unnecessary. Auditors, however, because of their high calling entailing great responsibilities, should always strive to set before them the ideally perfect as theories

upon which to work, even if such theories are not always capable of attainment in practice. The higher standard a man sets before him as being necessary to attain, the better will be his work, and, of course, the better a man's work is the more he is likely to get; so that, even from a rather selfish point of view, it is wise to keep one's standard of efficiency and qualification as high as possible.

Little has been said here with reference to an auditor's responsibility as to stock-in-trade, and in this connection it is suggested that in order to protect himself from carefully laid schemes of fraud, and because in any case it is beyond an auditor's province or power to guarantee absolutely that the stock is correctly valued, he should always fix the responsibility for such valuation upon some competent and expert person connected with the business. Further, he should clearly show on the Balance Sheet certified by him that the valuation stated is based upon such competent person's authority. If he is, with good reason, dissatisfied with the value taken credit for, he should, if the audit is a company one, mention the same in his report to the shareholders, and in other audits generally inform his clients that he is not satisfied in this respect. Provided he does this, and has exercised reasonable care, he need not feel weighed down with any very great responsibility.

In conclusion, it is thought that the remarks made on page 707 as to the general effect of the legal decisions upon an auditor's duties and responsibilities with reference to stock-in-trade fairly accurately give a general summing up from all points of view of such duties and responsibilities, and that in stating these in a general way possibly nothing more could be usefully added here. It should just be remembered, however, that these legal decisions are, of course, only case law, but probably of no less importance on that account. It would be hardly possible, and for many reasons inexpedient, for an auditor's duties in this or any other respect to be settled or defined in any degree of entirety by Act of Parliament.

As a last word, it is modestly hoped that this paper may be found of a certain theoretical value to students, and practical value to all.

After discussion, in which Messrs. R. F. W. Fincham, A.C.A., F. G. Bowers, and E. T. Wilkins took part, and to which Mr. Bird replied, the meeting concluded with cordial votes of thanks to Mr. Bird for reading his essay and to Mr. Miles for presiding.

Graduated Income-Tax.

Report of Select Committee

THE Select Committee appointed to inquire into and report upon the practicability of graduating the income-tax, and of differentiating, for the purpose of the tax, between permanent and precarious incomes, have considered the matters referred to them, and have agreed to the following Report:—

1.—Your Committee have deemed it to be beyond the scope of our inquiry to consider the desirability or equity, on general grounds of public policy, of the various proposals which have been placed before us, and the questions of principle which they raise. We have also refrained from discussing our general system of taxation and the effect which other taxes have in adjusting the incidence of the whole burden. At the same time we were from the outset agreed that it was necessary to give a wide interpretation to the term "practicability," and that we must not limit our consideration to the mere question of "possibility." We have, therefore, regarded ourselves as called upon to approach the subject from the point of view of practical working, and to take into account considerations of expediency and extent, both as regards the assessment and collection of the tax and the effect on the total amount which it would yield.

2.—Your Committee have considered the evidence and Reports of previous Select and Departmental Committees bearing more or less closely on these points, and we have had before us the Reports which were obtained by the Foreign Office and the Colonial Office on the law and practice and experience of several foreign countries and British Colonies.

3.—Your Committee have been greatly assisted in their inquiry by the evidence which has been given by Sir Henry Primrose, Mr. Bernard Mallet, and other officials of the Inland Revenue Department, and we desire to return to them our thanks. We have also had the advantage of hearing evidence from several members of Parliament, bankers, statisticians, and others, to all of whom we are indebted for valuable information, suggestions, and expressions of opinion.

Graduation.

4.—The income-tax is already graduated by abatement in the case of incomes not exceeding £700 a year. It remained for your Committee to consider whether gradua-

tion could be made universal or extended, and in that event by what means and within what limits the extension could be effected without prejudice to the Revenue or the economical administration of the tax.

5.—Graduation may be effected in various ways. First, there is the method of collecting the whole of the tax directly from each person upon his own declaration of income. If that system were adopted it would be easy to levy a graduated rate of tax according to the total net income of the individual. Such a course would involve, however, the abandonment of the principle which is known as "collection at the source." The importance of retaining in our Revenue system a principle which is mainly responsible for the present development of the tax and the ease with which it is collected, and the extreme undesirability of doing anything which would reduce its efficiency, can scarcely be over-estimated. At the present time, indeed, something like two-thirds of the tax is collected before the income reaches the person to whom it belongs, and without any information being obtained or required as to the persons to whom it will go. It is interesting to recall the fact that a hundred years ago we abandoned direct personal assessment, and collection at the source was substituted, with the result that the yield of the tax was almost doubled immediately. In 1803 an income tax of 5 per cent. collected at the source yielded within a very small amount as much as a tax of 10 per cent. did in 1801, when it was assessed and collected direct from each taxpayer.

6.—Your Committee are convinced that direct personal assessment *for the whole tax* is not practicable in this country, in the sense of being an expedient or desirable means of collecting revenue.

7.—The second method of graduating the tax, upon which we have taken much evidence, is that known as a super-tax; that is, "a second income-tax, distinct from and supplementary to the existing tax, to be levied on individuals by direct personal assessment." The suggestion which has come most prominently before us is that such general rates of tax as may from time to time be determined should be collected at the source as at present, but that all persons whose total net annual income amounted to, say, £5,000 should be required to make a separate return showing the amount of their income. Upon the income so disclosed, an additional tax would be levied, which would be graduated according to the total amount of the person's income.

8.—It will be seen that this is a combination of the method of a direct personal tax with that of taxation at the source. That portion of the tax which is new and addi-

tional would be a direct personal tax, and some of the objections which have already been urged against the adoption of a direct personal tax in place of the system of collection at the source apply to this proposal. They are modified, however, to the extent that the tax which is now collected at the source would continue to be so collected, and consequently there would be no loss of revenue there as the result of failure to obtain full disclosure for the direct personal tax.

9.—This proposal, in common with all proposals for direct personal assessment of the whole income, requires that a full statement of individual net income should be obtained from all persons upon whom the super-tax would be levied. It is true that, at the present time, about 700,000 persons do make a declaration of the amount of their net annual income. They are people with a total net income not exceeding £700 a year, and they make the declaration in order to obtain the abatement which the law allows upon such incomes. But it does not follow that other people with much larger and more complicated incomes would be equally willing to declare their actual income, when the object for which the declaration was required was that an additional tax should be levied upon them. It is one thing to require that information must be given before taxation can be reduced. To demand the information with a view to increasing the taxation of those who supply it is totally different.

10.—The difficulty of discovering who had an income of £5,000 a year or more and ought to make a return has been insisted upon by several of the official witnesses. But we think that the difficulties have been exaggerated. In most parts of the country the surveyors of taxes would probably know who are likely to be enjoying large incomes. There would also, no doubt, be difficulty in checking the accuracy of the declarations. Here again, time would be required. But it would be seldom necessary to take action a second time against any taxpayer whose return had once been found incorrect. When a certain amount of trouble had been expended on a limited number of cases, and penalties imposed for attempts at evasion, the incentive to correct returns would, in our opinion, be sufficient. If, moreover, the penalties for attempting fraudulently to evade the tax were made heavier and especially if publicity were given to such cases, there would be strong reasons for avoiding exposure. The Departmental Committee of 1904 reported in 1905 that the powers given by the law are inadequate. They wished that it should be made obligatory on every "individual" who receives an income-tax form to fill it up and to "return it (even though the entry required be no more than *Nil*)."

Your Committee endorse this view.

11.—Your Committee are, therefore, of opinion that a super-tax upon the larger incomes is practicable. But it offers some disadvantages and difficulties which have been pointed out.

12.—The third method of graduation to which your Committee have directed considerable attention is that of graduation by degression, which might take the form of extending the existing system of abatements, or of charging a lower rate of tax. Obviously degression by abatement is practicable, because it is now in operation and has worked smoothly for a long time. The point to be considered is—How far could it be extended, if it were desired to do so, without introducing serious difficulties and objections?

13.—Your Committee assume that whatever alterations may be made in the incidence of the income-tax as regards individuals, it is not desirable that the total revenue to be derived from that tax should be less than it would be under existing conditions. Indeed, it is well known that many people advocate a graduation of the tax quite as much as a means of increasing its total yield as of easing the burden of it upon the smaller incomes; and we have taken evidence in exposition of that view. It is clear then that, even if there is to be no increase in the total yield of the tax, the tax on the incomes in the higher portions of the graduated scale must be raised to a rate which would compensate for all loss of revenue resulting from the reduction of the rate on incomes in the lower portions of the scale; and the further graduation is extended, the higher must the rate of tax be made on the incomes above the limit to which it is carried. Moreover, the further graduation is carried, and the higher the normal or foundation rate of tax is thereby made, the larger will be the amount of money that will be collected and then returned to those who are entitled to an abatement.

14.—Theoretically, graduation by abatement from all incomes below the largest is possible. It would, however, in practice involve direct personal declarations of net income from every income taxpayer, and would, therefore, be open to some of the objections already described. The task of dealing with such an additional mass of claims for abatement as would result from a practically universal application of the system would be very heavy, especially as they would be far more complicated than those which now arise on the smaller incomes. A corresponding amount of trouble would be thrown upon those who claimed abatement; and the loss of time and the irritation caused in connection with the preparation and justification of those claims, combined with the very much higher rate of tax levied on the incomes in the higher portions of the scale, would arouse a feeling of resentment against the tax which it is very desirable to avoid.

15.—Finally, there are obvious objections to collecting from the public an enormous sum of money which must subsequently be returned to them. In every case where the tax is collected at the source, the maximum tax would have to be paid. If, then, £40,000 a year were taken as the maximum income beyond which graduation should not be carried, it would be necessary, in order to get the maximum tax out of some 250 persons, to collect the maximum rate on £450,000,000 of income and then to return part of the tax which had been collected on all but about £20,000,000 of that amount. The collection of so large an amount in excess of what was really required would be a serious inconvenience and a genuine ground of grievance to the large number of people who would have to provide it, and the unnecessary withdrawal of a vast sum of money from profitable employment in all parts of the country could not fail to interfere injuriously with the ordinary operations of commerce.

16.—Your Committee are aware that out of a total of about 1,100,000 people with an income of nearly £700,000,000 abatements are now allowed on the incomes of some 700,000 people with a total income of about £250,000,000. But these cases, we understand, present comparatively few difficulties. In many instances the tax is collected direct and the abatement is allowed at the time of collection. We are informed that the amount at present collected for income-tax and subsequently returned on account of exemptions and abatement by reason of the amount of income does not exceed £1,600,000 a year.

17.—Your Committee are of opinion that further graduation by means of degression on the lines of the present abatements is practicable. But there are limits beyond which it cannot conveniently and usefully be extended. Those limits will be reached when the total amount of the abatements become such as to require a large increase in the normal or foundation rate of tax, and the amount of the income to which the system of abatement is extended reaches a figure which would involve the serious inconvenience to the taxpayers themselves and to commerce generally of collecting large sums of returnable money. We have not sufficient information before us to enable us to fix the precise amount at which extension of the present system of abatements would cease to be prudent and convenient. Nor is it necessary that we should do so. It will probably suffice if we express the opinion that no serious difficulty would arise if the limit of abatement were extended from the present figure of £700 a year to one of £1,000 or even more.

Differentiation.

18.—Before your Committee considered the practicability of differentiating between permanent and precarious

incomes they felt it desirable to define clearly the meaning of the terms "permanent" and "precarious." Other terms which have been used are "industrial" and "spontaneous," "earned" and "unearned," and incomes resulting from "investment" and "personal effort." It is obvious that there are incomes from investments which are not "permanent." There are also incomes which are "earned" by "personal effort" which are less "precarious" than many which are derived from investments. Probably the words "earned and unearned" most accurately represent the distinction we have in our minds.

19.—Your Committee are not able to provide a completely logical and satisfactory definition of what constitutes an earned as distinguished from an unearned income. There is a large number of cases which for practical purposes must be placed under the heading "earned," into which the elements of investment and return upon capital distinctly enter. Private traders and manufacturers earn their income by personal effort and supervision combined with the investment of capital in their business. The profits of public companies will usually be regarded as "unearned" and as being derived from "investment." But a private trader may turn his business into a company and devote as much personal attention to its supervision as he did before. The line of demarcation is not strictly logical or accurate, but if the profits of private traders be regarded as earned and those of public companies and similar undertakings as arising from investment, a rough working distinction would be established which would probably meet with general acceptance. The mere supervision of invested capital should not be sufficient to entitle the income to be regarded as earned. According to our view of the question the owner of land who cultivated it himself would be regarded as earning the income which he derived from it; but the owner of an estate who let it to others to cultivate would not be regarded as earning the net income which he derived from the rents of that estate, although he might act as his own steward and devote much time to its supervision.

20.—It appears to us that the existing feeling in favour of some differentiation in the amount of the tax levied upon earned incomes does not require that all incomes irrespective of size should receive privileged treatment. If some limit were imposed the difficulty would be much reduced of doing substantial justice to those cases which are on the border line, that is, where the trader's capital is in his business and his income may be regarded as partly earned and partly unearned. Speaking generally, the smaller the business and the smaller the profit derived from it, the larger will be the proportion of that profit which is, in the strictest sense of the term, earned. The more extensive and remunerative the business is, the larger, as a rule, is the

part which capital plays in it, and the more practicable and equitable it will be to regard the profit derived from it as an income derived from an investment which is personally supervised as distinguished from an income earned by personal effort.

21.—Other difficulties and objections would be avoided by limiting differentiation between earned and unearned incomes to incomes not exceeding, say, £3,000 a year. Your Committee are of opinion that such differentiation is practicable and can most conveniently be carried into effect by charging on such incomes a rate of tax lower than the normal or foundation rate. This class of income is almost invariably directly assessed and collected. It would, therefore, be possible to charge the tax directly at the reduced rate. Indeed, it might be made a condition of the allowance of the reduction in the rate of the tax that the assessment and payment were directly made. In support of the limit we have suggested, it may be pointed out that Mr. Mallet has shown that the differentiation effected by the death duties, to which we refer later in our Report, in favour of incomes derived from personal exertion, is least marked in the case of incomes between £600 and £3,000 a year.

22.—The practical working out of our suggestions, so far as both graduation and differentiation are concerned, would be that—

(1) There would be an extension of the present system of abatement to incomes of £1,000 a year and possibly more.

(2) In the case of the earned portion of incomes below the limit of abatement there would be a lower rate of tax in addition to the reduction in the amount of incomes on which the tax would be charged.

(3) In the case of earned incomes between the raised limit of abatement and the limit of differentiation the rate of tax would be lower than the normal rate.

(4) The normal rate of tax would be levied upon incomes from property and investments above the limit of abatement and on earned incomes above the limit of differentiation.

23.—We desire to repeat that through our inquiry we have paid chief regard to the practicability of any system that may be devised from the point of view of raising revenue in a simple and effective manner, and of securing elasticity in times of national exigency. We would point out that under such graduation and differentiation as we have suggested it would be easy to effect a substantial increase in the highest rate of tax without equally increasing the rate on earned incomes not exceeding £3,000 a year; and as, owing to the extension of the

limit to which abatement would apply, only persons of substantial means would pay the full rate of tax, that rate could the more readily be increased. That is to say, the additional burden could be placed upon those who would be most able to bear it.

24.—Your Committee are of opinion that a personal declaration of total net income in respect of which tax is payable by everyone who may be called upon to make it should be compulsory, and would be of great value in preventing evasion and avoidance of full assessment, and in supplying information on which a system of graduation and differentiation could be based.

The Bearing of the Death Duties on Graduation and Differentiation.

25.—There is another phase of this subject upon which we have heard evidence, and to which we think it desirable, and respectful to Parliament, to refer. It is the bearing which the incidence of the death duties has upon the graduation and differentiation of the income-tax. The death duties have always been regarded as partaking, to some extent, of the nature of deferred income-tax, and it has been contended that the combined operation of the two taxes does in practice effect a very considerable graduation and differentiation. Sir Henry Primrose and Mr. Mallett submitted to us various calculations which will be found in the appendix, the object of which is to show what rates of income-tax are represented by the death duties, or, in other words, what rate of income-tax paid annually during life on the income from the property would be equivalent to the death duties paid on that property.

26.—Sir Henry Primrose calculates that if the State had levied a special additional income-tax on the income of estates which are liable to estate duty with the object of raising in each year the average amount of revenue which has been annually received from the duty during the ten years 1896-1905, and that income-tax had been graduated as the estate duties are, the tax so imposed would have ranged from 6d. in the pound on estates yielding an income of from £40 to £400 a year to 1s. in the pound on estates yielding an income of from £4,000 to £6,000 a year, and 1s. 3¾d. in the pound on estates yielding an income of £40,000 and upwards a year.

27.—If the death duties be regarded as a tax upon the person who succeeds to the estate, and a calculation be made to show what rate of income-tax payable by him during his life upon the interest of his capital would be the equivalent of the lump sum which is taken out of the estate before he inherits it, Sir Henry Primrose considers that, on estates yielding an income of from £40 to £400

a year, the estate duties are equivalent to an income-tax of 9d. in the pound per annum during the life of the inheritor; on estates yielding an income of £4,000 to £6,000 a year, of 1s. 6d. in the pound; and on estates yielding an income of £40,000 a year and upwards of 2s. in the pound.

28.—These calculations are based on the estate duties alone. But the legacy and succession duties, which together with the estate duties make up what are usually known as the death duties, yield a further £3,500,000 to £4,000,000 a year in addition to the estate duties. As the greater part of the legacy and succession duties falls on the larger estates, the total death duties not only represent a larger annual income-tax than that which is the equivalent of the estate duties alone, but they also represent a larger proportionate income-tax upon the incomes from the larger estates.

29.—These conclusions clearly show that if the income-tax and the death duties be regarded together as a form of income-tax there is already a very substantial graduation of taxation on incomes derived from large estates, and differentiation between large incomes derived from personal exertion and those derived from inherited property.

Summary of Conclusions.

30.—The conclusions of your Committee may be summarised as follows, the word "practicable" being used in the wide sense already indicated in our Report:—

(1) Graduation of the income-tax by an extension of the existing system of abatements is practicable. But it could not be applied to all incomes from the highest to the lowest, with satisfactory results. The limits of prudent extension would be reached when a large increase in the rate of tax to be collected at the source was necessitated, and the total amount which was collected in excess of what was ultimately retained became so large as to cause serious inconvenience to trade and commerce and to individual taxpayers. Those limits would not be exceeded by raising the amount of income on which an abatement would be allowed to £1,000 or even more.

(2) Graduation by a super-tax is practicable. If it be desired to levy a much higher rate of tax upon large incomes (say of £5,000, and upwards) than has hitherto been charged, a super-tax based on personal declaration would be a practicable method.

(3) Abandonment of the system of "collection at the source" and adoption of the principle of direct personal assessment of the whole of each person's income would be inexpedient.

(4) Differentiation between earned and unearned incomes is practicable, especially if it be limited to earned incomes not exceeding £3,000 a year, and effect be given to it by charging a lower rate of tax upon them.

(5) A compulsory personal declaration from each individual of total net income in respect of which tax is payable is expedient and would do much to prevent the evasion and avoidance of income-tax which at present prevail.

Institute of Directors.

Members Celebrate the Grant of the Royal Charter.

THE Duke of Argyll, K.T., presided on the 28th November at a dinner given by the Institute of Directors, at the Hotel Cecil, to celebrate the grant of the Royal Charter of Incorporation. His Grace, who is President-Elect of the Institute, was supported at the head table by the Right Hon. Lord Avebury, Judge Bompas, K.C., Sir William Holland, M.P., Sir James Woodhouse, Lord Teynham, Sir Clifton Robinson, Sir Thomas Brooke-Hitching, Sir James Bailey, J.P., D.L., Sir Henry Randal, Sir Wroth Lethbridge, Sir Robert A. Hampson, Sir Joseph Leigh, Sir George Hayter Chubb, Sir Ralph Littler, C.B., Colonel Sir Thomas H. Holdich, K.C.M.G., Sir Owen R. Slacke, C.B., Mr. Frank Crisp, Mr. T. Neville Stack, Mr. Edward Spicer, J.P., D.L., Mr. Walter Knox, Colonel St. Quintin, Mr. Robert Balfour, M.P., Mr. P. Williams, Mr. W. B. Peat, Mr. Clifford J. Cory, M.P., Mr. W. A. Lindsay, K.C., D.L., Mr. G. S. Barnes, Mr. Harold Brown, Mr. William Plender, Mr. John Waddington, Colonel W. D. Burrad, Mr. C. Rube, Mr. G. D. Kemp-Welch, D.L., Major-General R. Owen Jones, Captain Arthur Campbell, and Mr. Walter Bird. Among the rest of the company were Mr. Cuthbert Hall, Mr. W. M. Borro-dale, Mr. W. Arthur Addinsell, F.C.A., Mr. T. Ritchie, Mr. Joseph Hood, Mr. H. W. Maynard, Mr. J. P. Easton, Professor W. Galloway, Major Leggett, D.S.O., R.A., Sir Ralph Moor, K.C.M.G., the Hon. A. C. Crichton, Sir Raymond West, Major Pringle, Mr. R. Tetley, Mr. George Cayston, Mr. Montague Gluckstein, Mr. Alfred Salmon, Mr. A. M. Marks, Mr. Robert Warner, Mr. Philip Bright, Mr. Frank Debenham, Mr. H. J. Falk, Dr. Addinsell, Mr. S. L. Dore, Captain Golding, and Mr. Sinclair Macleay.

The loyal toasts having been honoured,

Lord Avebury submitted the toast of the evening,

"Prosperity to the Institute of Directors." He said that when he looked round and saw several hundreds of those who were the leaders in our commerce and manufactures, and when he thought of how much the prosperity of the country and the happiness of our countrymen depended upon the wise conduct of our commercial and manufacturing institutions, he could not help asking himself how was it that there was no Institute of Directors down to a few years ago? There were Institutes of Bankers, Actuaries, Secretaries, &c., all performing valuable and useful work in the community; but he ventured to think that the Institute of Directors would hold an even more important place than any of these sister and kindred institutions. It would be the function of this association to protect and to assist the interests of all the different branches of our great commercial institutions—banking, insurance, shipping, railways, gas, electricity, and many others. In a great many cases he had no doubt that they might be able to assist the Government by advice as to the measures which they might be passing, and possibly there might be some cases in which it might be desirable that the influence of an institution like this should be devoted to preventing hasty legislation. The success of the Institute had been all that the members could possibly have hoped for, and more, perhaps, than they could have ventured to expect. Their numbers were already very large, and were continually increasing. His Majesty's Government had been good enough to confer upon them a Charter, and they had therefore already achieved a very great measure of success, greatly through the wise and energetic counsel of the Chairman of the Council, Judge Bompas, and of their excellent and indefatigable Secretary, Mr. Addinsell. (Applause.) They had that day to congratulate themselves on having secured his Grace the Duke of Argyll as their President. (Loud applause.) It was most important that our commercial legislation and commercial policy should be wisely considered and wisely carried out. We had very important competitors all over the world; but he, for one, did not despair of the future of English commerce. He believed that as long as we maintained that character for integrity and perseverance which had characterised English commerce and manufacturers in the past, we might hope to see our commerce flourishing as it had done in the past. It was because he believed that an Institution such as this might fulfil a useful and valuable purpose in the history of the nation that he ventured to propose "Prosperity to the Institute of Directors," coupled with the health of their excellent President. (Applause.)

The President, in acknowledging the toast, said he confessed that on this occasion he felt what was called "very shy." He remembered an American friend of his, who

heard that expression "shy," asked what was meant by the word—did it mean "dividend"? He (the President) felt that he was among those who were much better pundits in commercial knowledge than he was himself; but he had, at all events, one claim for their consideration, and that was that he himself had been a director for some few years. Indeed, he was not quite sure, inasmuch as he belonged to two navigation companies, that he might not come under their very gentle censure—as he hoped it would be—of being a pluralist director. (Laughter.) He believed that the beau ideal of a director was one who did not direct more than one company. He could only plead that in his case the two companies had an almost analogous object. Lord Avebury had mentioned that he had many titles; he had, perhaps, more than he was entitled to; but he would only plead guilty in this one matter of being, to some extent, a pluralist director. (Laughter.) He hoped that for the twelve months during which he occupied the position of mayor in that Institute the members would have no cause to regret the choice they had made. Lord Avebury was a gentleman who had been able to devote himself to many branches of study, and amongst the foremost of these was that of natural history, and he had very rightly come to the conclusion that there was one great gap, and that was that there was no Institute of Directors. (Laughter.) He entirely agreed with him, and hoped Lord Avebury would take his place as a great investigator and a great creator to fill up that gap, which was manifestly one that ought to be filled, in our commercial well-being. He understood that this Institute had been in existence only two years and a-half, and they already saw the result of Lord Avebury's forethought in regard to it in the gathering he was addressing that night. It was, perhaps, as well that those who were put at the head of that Institute—nominal head, at all events—should be retired by rotation, and he did not know what the word rotation meant unless it was the matter of rotation in coming back to the same spot, and, taking it in that sense, he hoped they would see Lord Avebury in his old position again. Lord Avebury had shown that it was very desirable that this Institute should come into being, and had mentioned the necessity of watching the proceedings in Parliament with regard to the action of those who seemed apt to think that any government must necessarily be a mistake, and that the government by directors was probably full of mistakes. There was too great a tendency nowadays to question all government, and certainly the government of directors was always being questioned; but they were accustomed to take their places as those appointed to answer all questions and meet all objections that might be urged. This Institute had already proved itself to be able to get men together who would put forward any defence or explanation necessary on their

behalf on a secure basis, and to spread true knowledge amongst the masses as to what was intended by those who were working in commercial ventures. After two years' existence the Institute possessed over 1,300 members, and he believed they would find their ranks would swell more and more, and that it would be considered more and more a matter of importance in London commercial life to be a member of the Institute of Directors. He hoped their ranks would not only be open to directors who lived in London, but to those of provincial cities and of our great Imperial cities oversea. In the meantime, he thought they might congratulate themselves on the fact that the men engaged in commercial pursuits in our dominions had the same good reputation amongst the nations of the world that we had always flattered ourselves we possessed, and he believed they were all keenly jealous of that honourable position. (Applause.)

At this stage of the proceedings Judge Bompas, on behalf of the Council and members of the Institute, presented Lord Avebury with an illuminated address, expressing their profound thanks to his Lordship for the many services he had rendered to the Institute as its first President. During his term of office the membership had increased from 412 to 1,355, and it was largely owing to his influence that his Majesty King Edward VII. was graciously pleased to grant them a Royal Charter in July last.

Sir Ralph Littler proposed "Finance, Trade, and Commerce." He remarked that a good deal of the legislation which was directed to joint-stock companies had only the effect of creating marvellous pitfalls. The finance, the trade, and the commerce of this country had made it what it is, and he trusted that the commercial morality which would be taught by such an Institute as he was now addressing would keep our finance, trade, and commerce at the high level which it had attained in the esteem of the world. (Applause.)

Sir William Holland responded to the toast.

The other toasts were "Our Guests," proposed by Judge Bompas and responded to by Mr. Frank Crisp (in the absence of Lord Strathcona and Mount Royal); and "Our President," given by Sir James Woodhouse and responded to by the Duke of Argyll.

THE CITY DIARY—now in its forty-fourth year of publication—has just been issued at the offices of the *City Press*, 148-9, Aldersgate Street. The annual is, as usual, a handbook to the City as well as a diary proper, and issued at the popular price of one shilling.

Against the Metre.

Important Resolutions from Manufacturers.

At a meeting of the Committee of Control of the British Weights and Measures Association (25 Victoria Street, London, S.W.), held recently, Mr. J. Hartley Wicksteed, Ex-President Inst. Mach. Eng. (Joshua Buckton & Co., tool and testing machine makers), Leeds, proposed the following resolution:—

That while the British Weights and Measures Association has no desire to impose upon the scientific section of the community a system of weights and measures other than that they already use, yet it declares that with a view of bringing the physical science units into harmony with the British industrial and commercial units, it is desirable that they be based upon the inch at a standard temperature, the square inch, cubic inch and the weight of a cubic inch of pure water at the standard temperature under a barometric pressure of 30 inches of pure mercury instead of derivatives of the metre units, which are:—The metre at the temperature of freezing point, the are or square decametre, the litre or cubic decimetre, the stère or cubic metre, and the gramme or weight of a cubic centimetre of pure water at 4 deg. C. or 39.2 deg. F. at a barometric pressure of 760 millimetres or 29.922 inches.

It regrets that the merits of the inch units have been so long neglected by scientists, for these units (a) serve the requirements of science, (b) their co-relation is simpler than the metre units, (c) they may be operated decimally by those who find decimals an advantage, and this without compelling others to use decimals who find them a hindrance, and (d) they have the valuable property of being commensurable with the manufacturing and trade units wholly in use in every English-speaking country, and largely in use in every other country in the world, thus providing a base to which these can be easily and economically adjusted.

(a) Science requires weight units to be co-related through the medium of pure water with the cube of linear units. The inch units are so co-related.

(b) It only requires a glance at the following comparisons to see how much more simply the inch units are co-related than are those based on the metre.

INCH UNITS (s equals Standard Inch).

s	= Linear Standard.
s ²	= Square Standard.
s ³	= Capacity and Volume Standard.
s ³ weight of water	= Weight Standard.

METRIC UNITS (m equals Metre).

m	= Linear Standard.
m ² x 100	= Square Standard.
m ³ + 1,000	= Capacity Standard.
m ³	= Volume Standard.
m ³ + 1,000,000 weight of water	= Weight Standard.

(c) All the inch standards being on a common base and not on the standard unit itself, and on decimal multiples, and sub-multiples of this unit, as in the metric system, are available for binary and duodecimal multiples and submultiples equally with decimal multiples and submultiples. Thus, whilst scientists and those interested primarily in computation will use decimal multiples and submultiples, the foot is retained by a multiple of 12, the yard by a further multiple of 3, the chain by a multiple of 66, and so on. The engineer thereby retains his inch and foot, the shipowner his existing draught and measurement tonnage, the textile manufacturer his yard, and the surveyor his chain and his acre. Each of these derivatives may be used as a trade unit, and decimalised exactly as they are now, for convenience of calculation.

(d) We see in the foregoing that whilst provision is made for scientific units which are easier of application than the metre units, this provision is based on a normal which brings those units into harmony with the existing industrial units, and whilst none of the latter are disturbed a simple scientific base is provided to which they may be adjusted as and when manufacturers and traders find such a course desirable. For instance, one cubic inch of water weighs $252\frac{1}{4}$ grains. A very slight increase of less than 1 per cent. to our weights would give 250 grains to an inch and 28 inch weights to a lb. The gallon, as a vessel containing 10 lbs. weight of water, would then contain 280 inches, whence if a decimal pint was deemed desirable, this pint would weigh 1 lb., 10 lbs. 1 gallon, and 10 gallons 100 lbs.

Mr. Robert Kaye Gray, Ex-President Inst. Elec. Eng. (India Rubber, Gutta Percha, and Electrical Works, Silvertown), London, seconded the resolution, and it was unanimously carried.

Mr. Thomas Roberts, cotton manufacturer, of Darwen, representing the Cotton Employers' Federations of Lancashire, proposed:—

That it is desirable to present the views of this Association by a deputation to the Prime Minister, the Secretary of State for the Colonies, and the President of the Board of Trade, with a view to the Government legalising the weight of a cubic inch of pure water at a given temperature and pressure, either by order in Council or by special Act of Parliament.

Mr. James Paxman (Davey, Paxman & Co., engineers, Colchester), of Stisted Hall, Braintree, seconded, and it was carried unanimously.

The Secretary reported that following on the appointment of Mr. H. Suplee, engineering expert, of New York, to act as the Corresponding Secretary for U.S.A., and Mr. De Grane Sells, engineer and naval architect, of Genoa, to act as Corresponding Secretary for Italy, there were two other gentlemen nominated to act in that capacity for India. Messrs. C. L. T. Griffith, municipal engineer to the Corporation of Madras, and A. M. Close, C.T., of Bulanshah, U.P., were duly appointed.

It was also reported that amongst other members joining during the month were Professor Ripper, head of the Applied Science Section of Sheffield University; Dr. Waddy, of Sheffield; Messrs. Wm. Brookes & Son, saddlers, Walsall; and Messrs. Jno. Russell & Co., Lim., tube, &c., manufacturers, of Walsall, Wednesbury, and Birmingham.

Several Lancashire Chambers of Commerce have followed the example set by the Manchester Chamber and resolved to strongly oppose the introduction of the metric system, if it is to be applied to the textile or engineering trades.

Mr. Robert Kaye Gray was elected permanent Chairman of the Committee of Control, which hitherto has appointed a chairman at each meeting.

THE LAWYER'S COMPANION AND DIARY FOR 1907—edited by Edwin Layman, B.A., of the Middle Temple, Barrister-at-Law (61st year of publication)—has now been issued. Attention is drawn to the many additional Tables that appear in this issue. The publishers have spared no expense or trouble in obtaining, as they hope, every Table that is likely to be of service in a solicitor's office. With these improvements, they feel the 1907 edition will effectually supply the requirements of all who use it.

Meetings for the ensuing Week.

Wednesday—SHEFFIELD CHARTERED ACCOUNTANTS STUDENTS' SOCIETY.—Joint Debate with the Nottingham Chartered Accountants Students' Society, "That it is both desirable and necessary for the existing Income-Tax Procedure to be amended," at the Library, Hoole's Chambers, Bank Street; 6.45 p.m.

Thursday—LEEDS AND DISTRICT CHARTERED ACCOUNTANTS STUDENTS' ASSOCIATION.—Lecture, "Some Notes on Table A," by Dr. D. F. De L'Hoste Ranking, at the Law Institution, Albion Place; 6.30 p.m.

GLASGOW CHARTERED ACCOUNTANTS STUDENTS' SOCIETY.
—Annual Dinner.

Personal.

MR. W. S. ASTON, F.C.A., Birmingham, has been appointed to the Commission of the Peace for the city of Birmingham.

MR. HERBERT T. ROSEVEAR, Chartered Accountant, has removed his offices from 25 Westgate Road to 13 Moseley Street, Newcastle-upon-Tyne.

MR. H. J. WINKLEY, Chartered Accountant, announces that after twelve years' service with Messrs. DERBYSHIRE BROS. and Messrs. HUBBART & DUROSE, Chartered Accountants, of Nottingham, he has commenced to practise on his own account at Russell Chambers, King Street, Nottingham, and at Wisbech.

MESSRS. JONES, CÆSAR, DICKINSON, WILMOT & Co., Certified Public Accountants (Ill.), PRICE, WATERHOUSE & Co., Chartered Accountants, of 54 William Street, New York, announce that they have established a branch in the City of Mexico.

The partnership heretofore subsisting between T. J. WATKINS and G. E. BARNES as Incorporated Accountants and Auditors has been dissolved by mutual consent. Mr. T. J. WATKINS will continue to carry on business as an Incorporated Accountant and Auditor at Bank Chambers, Stockton-on-Tees, and 8 Scarborough Street, West Hartlepool, under the style of T. J. WATKINS & Co. Mr. G. E. BARNES will continue to carry on business as an Incorporated Accountant and Auditor at The Literary Institute, Stockton-on-Tees.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, Nov. 30th, was 172, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 96; Deeds of Arrangement registered, 76. The respective numbers in the corresponding week of last year were: Bankruptcies, 116; Deeds of Arrangement, 75—total, 191; being a decrease of 19. The total number of commercial failures recorded during the 48 weeks of the present year is 7,770; the total number recorded in the corresponding 48 weeks of last year was 8,331, showing a decrease of 561.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, Nov. 30th, was 174. The number in the corresponding week of last year was 186, showing a decrease of 12. The total number filed during the 48 weeks of the present year is 7,048; the total number filed in the corresponding 48 weeks of last year was 7,773, showing a decrease of 725.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, Nov. 30th, amounted to £1,488,022, by way of addition to £471,235, previously issued by the same companies. The amount registered in the corresponding week of last year was £1,931,356, showing a decrease of £443,334. The total amount registered during the 48 weeks of the present year was £72,893,888 (in addition to the issues in previous years by the same companies), as compared with £74,451,242 for the corresponding 48 weeks in 1905, showing a decrease of £1,557,354.

American Systems of Finance.

THE power of a country's system of finance in shaping the course of its commerce and industry is one of the things comfortably forgotten after a certain level of prosperity has been reached. Our own people take for granted the system by which men of ability in this country are supplied with means, and without pausing to admire it. Only in adversity do they realise how much it matters to track that capital should be forthcoming when it is wanted, and turn their eyes to survey the work done under some other system of finance. The example of Germany is the

favourite instance, and, indeed, we may commend the methods that have made practicable the vast expansion of its industries during the past thirty years. Whether we approve wholly of the action of German banks in taking large holdings in industrial concerns or not is another matter. But we may see that the German system has admirably served the German turn, although it may need adjustment to changing conditions or may display marked weakness at a great crisis. In any case, a less elastic system of banking is likely to have been less successful in the past, and Germany affords a good example of the power of finance in promoting commerce. Instances of the lack of money hindering business are not at all far to seek.

The American system of finance, when it is heard of at all, is known as a great chaos. Its lack of co-ordination is the prime disturbing factor in our own money market. The absence of a cheque system comparable to our own, the isolation of the National Banks, the stringencies induced by speculation in Wall Street, and the periodical relief afforded to the market from Washington are the commonplaces of the daily papers. The defects of the system or want of system are borne in upon us to our discomfort, and London awaits the financial reformation in the United States with hardly less eagerness than does New York. America has progressed more rapidly than her methods of financing trade. In ten years crops and railway earnings have doubled, iron production has multiplied itself by four, immigration proceeds at three times the former rate, and bank clearings at New York are appreciably more than three times as much. The story is one of amazing prosperity, and it is not to be wondered at that the need of gold has occasionally been acutely keen. At this point—upon a picture of speculator and business man alike paying dear for their money—the chapter ordinarily ends. How the manufacturer obtains the capital he requires is not told.

Obviously, there has been in the United States since the passage of the Dingley Act an enormous demand for money for industrial concerns. The demand has been met in part through the facilities offered by limited liability organisation. Even so, there has been a shortage due to the active employment for capital in all directions. It has been easier to equip a concern with plant than to provide for it an adequate working capital also. The temptation to embark in industry has been strong, and the American does not feel himself fettered to the business in which he has hitherto been engaged. As a consequence, great numbers of new businesses have sprung into being, many of them with the most slender resources at the outset, which depend for their continuance on a strong market for goods. These have prospered fairly well, for commercial failures in America are now at the rate of eight per thousand, instead of the twelve per million of 1896. But they have

needed, and do still need, financing from the outside. The selling agents in the Atlantic cities bore a share in feeding the concerns for which they acted. They, however, have given over that function generally to the banks. The banker is intermediary between the two, making advances to the manufacturer on the value of goods sent into the commission house, and receiving the proceeds of the sales effected by the latter.

In effect, numbers of these producing establishments have mortgaged everything they produced, and as quickly as it was manufactured. The arrangement has been an undoubted convenience, but it differs so much from English practice as to call for attention. Nor is it only with the banker proper that these systems of prompt accommodation have been made. The financial agent is at hand to deal with those who will make legal assignment of customers' debts to him. He makes an immediate advance upon the invoice, charging interest at 6 per cent. per annum, and a monthly commission at the same rate. If the terms seem usurious, they are still such as necessity dictates, and such as some Americans have found it expedient to pay. To the English mind there is something deplorable in the sight of this hurry to hypothecate every obligation. It is impossible not to wonder what customers in this country would say to actions which inform a third party of all the essential particulars of business that takes place between two. It is quite plain to see that at some point the charges of the financial agent will become too onerous to be supported. No less plain is it that the banks must, of necessity, restrict their advances severely whenever trade shows a disposition to contract. The fair weather business—trading up to the utmost limit of its resources—must be compulsorily retired at the first hint of a storm. The order to stop operations may be unwelcome enough to proprietors or stockholders, but there is no setting the command at defiance.

If it has been made easy for Americans to launch into industry, it has at the same time been made difficult for them to continue when markets are failing. That, perhaps, is one reason why "dumping" has scarcely reached the proportions that had been feared. A second reason is the sustained vitality of America's internal trade, which has made possible many developments that could hardly be repeated in our islands. Memories are short and recoveries sharp in America, or there might be more cause to fear a condition which conduces to panics in finance and panics in trade. The nations do not live to themselves alone, and London has some interest in hoping that catastrophe will not overtake America before she has smoothed her channels of finance.

J. A. HUNTER.

(The Financial Standard.)

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THE CORNHILL MAGAZINE for December contains the concluding chapters of "Chippings," by Mr. Stanley J. Weyman, and the customary instalment of "Fräulein Schmidt and Mr. Anstruther," by the author of "Elizabeth and her German Garden." Of especial interest to the magazine which the author of "Vanity Fair" first edited is the complete history and text of "Thackeray's Mahogany Tree," with the air to which it was sung, contributed by Sir Francis Cowley Burnand. By a happy coincidence the next place is held by Thackeray's daughter, Mrs. Richmond Ritchie, who in her "Blackstick Paper, No. 11," furnishes personal and literary reminiscences of Mrs. Gaskell. Canon Beeching contributes his second and concluding lecture on Shakespeare, and, amongst other interesting matter, Mr. Hartley Withers writes as an expert for the uninitiated "Concerning Bank Rate."

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LAW REPORTS.

The December issue of the *Financial Review of Reviews* maintains the high-class character of its articles on investment subjects. Mr. George Jamieson, C.M.G., who was for many years Acting Chief Justice of the Supreme Tribunal of China and Japan, and also British Consul-General in China, writes interestingly on Chinese investments and finance. His contribution to the intricate question of Chinese finance is particularly valuable at the present time, when discussion is rife respecting the attitude of the Chinese Government towards the administration of the Customs, which provide security for the Imperial loans of the country.

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Extract from *Auditing*, by LAWRENCE R. DICKSEE, F.C.A.
(Page 190)

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Leading Articles.

**The Liverpool Society of Chartered
Accountants' Dinner.**

OUR readers will have gathered from the very full account which appeared in our issue of the 24th ult. that the annual dinner of the Liverpool Society of Chartered Accountants on the 15th ult., under the Presidency of Mr. EDMUND D. WHITE, F.C.A., was a great success. There was a large attendance

of members, and many visitors were present, including the President and Vice-President of the Institute.

It is unnecessary for us to deal at length with all the somewhat numerous and highly effective speeches, the more so in that the interest attaching to several of these is distinctly local. Two points were raised, however, in the course of the evening which appear to be of very special importance at the present time, and we propose, therefore, to concentrate attention upon these. Mr. W. B. PEAT, F.C.A., in responding to the toast of "The Institute of Chartered Accountants," submitted by the Lord Mayor of Liverpool, stated in clear and unmistakable terms that he thought the time had arrived when they should seek to have some form of registration which would prohibit from practising those with no qualifications to practise, and which would close the door to all save those qualified to discharge the duties which they were called upon to fulfil. At the present time, and especially during the last twelve months or so, societies of self-styled accountants have been multiplying, and if all of these were to be admitted to registration, the immediate effect of that registration would certainly not be to prohibit from practising those who have no qualifications to practise.

We mention the point at this stage because it strikes us as being a somewhat vital question of principle whether any scheme that may be formulated is to provide for the registration in the first instance of *all* claimants, or whether from the first some attempt is to be made to protect the public—which is, of course, the strongest argument in favour of registration—by some sort of a weeding-out process. Questions of detail can, of course, be properly

postponed for consideration at a later stage, but the question that we have just alluded to is fundamental and vital, and, however decided, will doubtless produce some opposition. It is thus, we think, of the greatest importance that there should be a clear understanding among *bonâ fide* members of the profession which plan they think upon the whole the best to adopt as a starting point.

It is very satisfactory to observe that the Liverpool, Manchester, and Birmingham Societies are—so Mr. PEAT informs us—taking their places in the forward movement, and that they have brought the Council of the Institute to see that a step in this direction would be a wise and prudent step.

Solicitors' Accounts.

IN pursuance of a requisition signed by upwards of one hundred well-known solicitors, a special general meeting of the Law Society was held yesterday to consider the advisability of appointing a Committee to inquire into the subject of the custody of clients' moneys.

Our readers will hardly require to be reminded that this is no new subject to engage the attention of solicitors. On the contrary, it is one which from time to time has cropped up during the past six years or so, having probably first been brought into prominence at the time when a receiving order was made against an ex-President of the Law Society under somewhat disastrous circumstances. That being so, the first impression that occurs to one is perhaps that of wonder as to whether the time for consideration has not now gone by, and the time for action arrived; but a little further consideration will, we think, suffice to show that this

impression is not altogether justified by the facts. Some action has already been taken by the Law Society; its statutory rights in the matter are very strictly limited; and further discussion would appear to be desirable, if only with a view to promoting legislation in order to obtain an extension of those rights.

Shortly stated, the history of the matter may be said to be as follows:—In April 1900 a special Committee of the Incorporated Law Society was appointed to inquire into the best means of protecting solicitors and the public against certain malpractices which had then been recently disclosed. This Committee, of which Mr. HENRY MANISTY was Chairman, recommended that all solicitors should have their accounts periodically audited, and keep separate Banking Accounts for their clients' moneys. The Committee was divided in opinion as to the expediency of forming a guarantee fund, partly no doubt on account of the fact that all solicitors are not members of the Law Society, and that, therefore, a safeguard of this kind which had only partial application might well prove so misleading as to be actually injurious. However that may be, no recommendation was put forward upon that subject. Doubtless some of our readers will be able to tell us whether there has, during the past six years, been any material increase in the number of solicitors submitting their accounts for audit, and in the number who systematically separate clients' moneys from their own and pay them into a separate banking account. Our own impression is that, so far, neither of these recommendations has found very many new adherents; but we may, of course, be mistaken. No doubt many solicitors do adopt the Dual Banking Account System, but the system was by no means unknown prior to

1900. Again, many solicitors have their accounts systematically audited by Chartered Accountants, but this again is not an innovation of the past half-dozen years. However deplorable the admission may be, we think it must be conceded that the recommendations of this very influential Committee of 1900 have—to a very large extent, at least—fallen upon deaf ears.

The next step in the somewhat deliberate movements of the reform party appears to have been taken on the occasion of the provincial meeting at Leeds in 1905, when the Council promised to further consider the subject, an undertaking which it was accused in somewhat round terms of disregarding at the provincial gathering held in the summer of the present year. But in the meanwhile at least one step forward has been made, in that (commencing with the Society's examination in January 1906) Accounts and Bookkeeping had been restored as one of the subjects for the Intermediate Examination.

It is only fair to the Law Society, however, to point out that, if without undue haste, it has at least now decided to give practical effect to the recommendations of the special Committee on the subject of the Dual Banking Account System, by educating the future generation of solicitors upon the right lines, and although the education appears to be a somewhat superficial affair, it is no doubt in the right direction, and (if we may use the expression) beginning at the right end. Naturally, however, if the public is to wait for the general adoption of the Dual Banking Account System and a professional audit until those articulated clerks now presenting themselves for their Intermediate Examination are "full-blown" practitioners,

some further and very considerable delay must ensue before any really effective step has been made towards the better protection of the public and towards the better protection of the weak-minded among solicitors against themselves. It is thus anything but surprising that those members of the profession who are sufficiently far-seeing to appreciate the damage caused to its prestige by the backslidings of an altogether insignificant majority should become impatient, and should be pressing for more immediate and more drastic reform; and this doubtless is the explanation of the special general meeting that was convened for the 14th inst.

Whether (and, if so, when) the results of that meeting's deliberations will be made public remains yet to be seen. So far, we only know that it has been arranged that representatives of the press should not be admitted to the meeting; but however that may be, there is clearly a movement being made, and that in the right direction, and its logical outcome would appear to be the promotion at the earliest possible moment of a Bill in Parliament enabling the Law Society to enact regulations—within, of course, suitable limits—for the proper conduct of their business on the part of all enrolled solicitors, whether or not members of the Law Society. To the average layman the most convenient means of accomplishing this end would appear to be by making membership of the Law Society compulsory in all cases, but this is, of course, a purely domestic matter, with which outsiders need not concern themselves. The point that is of essential importance to them is that those who occupy the exceptional position of responsibility and trust enjoyed by solicitors should in some effective way be

required to discharge their duties so as to protect the public against all possibility of loss by fraud or insolvency. Moneys paid into Court are, of course, at present so protected, and it seems only reasonable that moneys duly paid to an officer of the Court should in some way or another be equally protected.

The Income-Tax Report.—II.

PASSING on to the question of the difference between permanent and precarious incomes, we think that it is beyond human ingenuity to devise any practicable test as to what is earned and what is unearned income. There are, it is true, a few investments of so safe a character that in normal times they may be reasonably expected to produce a fair return without much watching—that is to say, automatically; but probably the majority of those who rely for their income mainly upon their invested capital know that a satisfactory return is only obtainable by very constant watching, judicious changes of investment, and frequently by actual work performed in the management of their estates. It will probably be admitted by radical politicians that the retired tradesman who derives an income from weekly property, the rents of which he himself collects, is working for his living; but as likely as not they would say that a country squire similarly situated was not—even although his rent-roll was not sufficient to enable him to employ a steward, and he was therefore compelled to look after his affairs himself. But even supposing they granted that a landlord managing his own estates was earning his living, by what process of reasoning would they draw the line at a man who employed others to work for

him? Why should the landlord employing one or more agents be regarded as receiving "unearned" income when the manufacturer employing thousands to work for him is placed in a different category? From whatever point of view the matter be regarded, it must, we think, be obvious that any such distinction between earned and unearned income can only be arbitrary; and, like all arbitrary definitions, is likely to aggravate rather than remedy abuses.

If, on the other hand, it be sought to draw the line between income derived from the investment of one's own unspent earnings, and income derived from property inherited, it may be pointed out that the operation of the death duties is always to differentiate to a very material extent between these two classes of income; and, if it be thought desirable to make the difference still greater, obviously the death duties provide a far more convenient and effective means than the income-tax.

Coming back, however, to the terms of the Committee's reference, which directed them to inquire into differences between permanent and precarious incomes, it may be pointed out that so-called precarious incomes are not necessarily entitled to special consideration at the expense of permanent incomes. A precarious income is only a disadvantage in cases where there is a risk of its yielding, in a bad year, less than a reasonable expenditure upon living expenses; and even then that risk may be cheerfully borne by those who are possessed of sufficient capital to tide them over "lean" years, and who are satisfied that upon the average their income will be larger if derived from such sources than from something more steady. Most large incomes are, by their nature, extremely precarious, but there seems no reason on that

account why they should be taxed at a lower rate than a more moderate income derived from, say, a salaried appointment.

To sum up, we can only say that this Committee has thrown no light, and appears to have hardly attempted to throw any light, upon the real problem that faces the Treasury. That problem is how to meet the financial situation which requires, in times of peace, a reliance upon the income-tax for a yield of upwards of fifteen millions per annum, which can only be exacted under conditions which tempt evasion of every possible description. The tax has now grown to such proportions that, even were there a surplus available for its reduction, it would require about 2½ millions to reduce the tax a single penny, while the votes to be acquired by such reduction would be altogether inconsiderable. On the other hand, 2½ millions devoted towards reducing any form of indirect taxation would be extremely popular, and could hardly fail to attract adherers to those responsible for the reduction.

Thus the tendency of the times appears to be dangerously in favour of a reduction of every form of taxation in preference to the income-tax—a procedure which, in spite of all Parliamentary inquiries, and of all attempts at pacification by taking something off small incomes and putting it on to large incomes, cannot fail to produce extremely unsatisfactory results. With regard to the very largest incomes, which, of course, contribute most largely to the Revenue, there seems every probability that unreasonable rapacity will have the effect of driving capital out of the country altogether, and thus reducing the aggregate amount available for assessment. This course has already been pursued in some cases, and it seems not unlikely that the

decision of the Court of Appeal in *De Beers Consolidated Mines* will cause the directors of that company to come to the conclusion that a sum of £100,000 per annum is too much to pay for the luxury of a London office, which is really quite unnecessary for the successful administration of their undertaking. Until at all events some serious attempt has been made to deal with the matter comprehensively, and reasonably, we hope that the ill-digested recommendations of Sir CHAS. DILKE's Committee will be shelved in the same way as those of the Income-Tax Committee appointed in April 1904.

Notes on the Report of the Select Committee on Income Tax.

By MR. ROGER N. CARTER, F.C.A.

IT will be remembered that the terms of the reference were to "inquire into and report upon the practicability of graduating the income-tax, and of differentiating, for the purpose of tax, between permanent and precarious incomes."

In studying the report, it is interesting to notice the evolution of it.

Three reports were originally submitted—one by the Chairman (Sir Charles Dilke), one by Sir Thomas Whittaker, and one by Mr. McCrae.

When it came to the question of which one should be considered in detail, as between the Chairman's and Sir Thomas Whittaker's, the former received five votes and the latter nine; then, as between Sir Thomas Whittaker's and Mr. McCrae's, those who had voted for Sir Charles Dilke's voted for Mr. McCrae's, and the nine again voted for Sir Thomas Whittaker's. It was therefore his report which came to be considered, and was ultimately adopted after amendment.

It may be noted, in the first place, that Sir Charles Dilke's report was three times as long as Sir T. Whittaker's, while his was five times the length of Mr. McCrae's.

The value of the report is to some extent discounted, inasmuch as the Committee have considered it beyond the scope of their reference to say whether any of the proposed changes are *desirable* or *equitable*.

Further, they have refrained from recommending anything which they considered impracticable, even though they may have been of the opinion that it was "possible." This commends itself as a reasonable attitude, as it is obviously ridiculous to suggest anything which it is not thought can be carried out as a practical measure.

It may then be taken that the Committee recommend as *practicable* :—

- (1) An extension of the existing scheme of graduation by abatement.
- (2) Further graduation by a super tax.
- (3) The retention of the present system of taxation at the source.
- (4) Differentiation between earned and unearned incomes.
- (5) A compulsory personal declaration of total net income.

We will, then, take each head and discuss it on its merits, though intelligent criticism becomes more difficult as the *evidence* is not obtainable, and one therefore offers criticism, so as to speak, *ex parte*. Sir Charles Dilke's report, however, is of considerable utility in this respect, as it quotes evidence somewhat fully.

(1) *Graduation, &c., and (3) Taxation at the Source.*

There are probably few people of any practical experience who would not admit that the objection to the payment of tax by way of deduction in the case of persons entitled to exemption and abatement is far and away outweighed by the extreme convenience caused, not only to the revenue but also to the vast bulk of taxpayers, by the present system of taxation at the source, two-thirds of the tax being collected before it reaches the person to whom it belongs, and as much as four-fifths either by deduction or satisfactorily verified. It might, therefore, have been taken as a foregone conclusion that there would not be any suggestion for altering this system.

Under these circumstances it is somewhat difficult to understand what can have been in mind when it was originally suggested that graduation could be effected by a "corresponding reduction in the rate of tax."

The Committee state that they start from the hypothesis that (each penny of) the tax is to yield as much as at present. Whatever may be one's own view upon that point, it is apparently useless to deal with the matter on any other basis.

Obviously, then, the further graduation involves a higher rate of tax in the first place. The Committee recommended that the present system be extended to incomes of £1,000, or even more, and they only stop there because of the fear of amounts collected, and which will ultimately have to be repaid, becoming so large as to cause inconvenience to trade and commerce and individual taxpayers. Sir Felix Schuster thought it would, but Mr. Algernon Mills (Glyn, Mills & Co.) differed.

For the sake of argument we may suggest a scheme, say—

Income not exceeding £400	abated £300	and pays on £100
" " 600	" 200	" £400
" " 800	" 150	" 650
" " 1,000	" 100	" 900

I have purposely made fairly large divisions, as I hold that the present system of allowing (at the present rate) 10s. for the difference between an income of £400 and £500 is trifling.

I do not see any material gain by extending the abatements on the lines indicated; and the only other method would appear to be exemption up to a much higher limit, which would cut out the great bulk of the taxpayers. I cannot help thinking that at present to a man with £700 per annum the £3 10s. is not appreciated so much for itself as from the fact that it is regarded as obtained out of the relentless maw of the income-tax collector, and this would be emphasised if we came, as I suggest, to repay on £100 to a man with £1,000.

It seems to me, therefore, that though there does not appear to be much gained by *extending* the limit of abatement, a *readjustment* in detail afford-

ing greater relief to small income-tax payers would be useful, and would be appreciated.

(2) *The Super Tax.*

It is, of course, already recognised that a man with £600 per annum can (in general) better afford to pay tax than one earning £200, and this point becomes more and more apparent as one rises in the scale—certainly, at any rate, till an amount is reached far above any normal living requirement, when the question of "affording" disappears, and the only point is how many hundreds or thousands a man can save, and whether £10,000 of income should pay the same *pro rata* tax as £100,000.

If it may be assumed, as I suppose it may, that a tax should fall as fairly as possible on all, the justice of the super tax is scarcely deniable. The Committee, we see, consider it practicable, and they suggest a super tax on all incomes of £5,000 and upwards, based on a personal declaration of income. They point out that 700,000 persons now make a full statement of their income from all sources, but that this is done to obtain an *advantage* (abatement), and that it by no means follows that returns will be obtained with the same facility when they are required for the purpose of compelling payment of further tax.

In the report as originally drawn it was suggested that there would be far more evasion under this system, and that the evasion would extend, not only to the new tax, but also to the old, so far as collected on returns.

Amending (by 11 votes to 5) their original suggestion, which was distinctly opposed to the super tax on the ground of difficulty in obtaining the return (it was suggested that returns would be required from 100,000 people in order to reach the 12,000 who, it is estimated, had £5,000 per annum or upwards), the Committee think this difficulty exaggerated, and that public penalties for evasion would soon bring things into line.

There is not the least doubt that the proposal would meet with strenuous opposition, but the justice of it is apparent, and when once in operation things would settle down, as was the case when the Finance Act, 1894, was passed.

(4) *Differentiation.*

This is one of the thorniest problems which is likely to arise. In broad principle probably most people will acknowledge that (subject to allowance for small incomes) anyone having an "unearned" income should pay more proportionately than one who "earns" his income by the (greater or less) sweat of his brow. The Committee have adopted the expression "earned" and "unearned" in preference to "permanent" and "precarious," "industrial" and "spontaneous," or "investment" and "personal effort."

The difficulty of a logical definition of the difference is thought to be got over by suggesting that the profits of private traders and companies may be considered as "earned," and those of public companies as "unearned"; and as it is suggested that the larger the business the more it partakes of the nature of "unearned" income, it is proposed that differentiation should only be allowed where the profits do not exceed £3,000, and that a lower rate than the normal or foundation rate should be charged.

One difficulty which occurs to me here is as to what rate of tax should be deducted on interest paid—presumably the higher rate, and the trader to account for the difference.

Again, what is a "private" company? If I have £500 invested in a company with only a few shareholders, will the dividend on it be taxed as "earned"?

Also, to secure full justice, every business would require to be considered on its merits in order to say whether (or to what extent) the profit was *really* earned. One man may have to put in full personal time to receive his profit, whereas another business yielding the same profit may not need any special personal attention. Indeed, to use the words of Mr. Lowe, which were supported by Mr. Gladstone and Sir Wm. Harcourt, "If the State undertook 'to ask only an actually just equality of sacrifice' it would 'be compelled to yield to ever-increasing 'demands for fresh sub-divisions, until at last 'every man's case has to be considered apart.'"

Another point is that, difficult as is now the question of Depreciation, &c., it would be infinitely more so if on it depended the question whether the trader was to pay an additional tax on *all his income*.

The Committee (apparently) favour this system of graduation and differentiation somewhat strongly on the ground that it would be easy to effect a substantial increase in the highest rate of tax without equally increasing the rate on earned income not exceeding £3,000 per annum.

For the reason stated, however, the question of differentiation seems to me to be so complicated that I doubt whether it can be introduced without raising inequalities as great as exist at present.

(5) *Compulsory Personal Declaration of Total Net Income.*

The Committee recommended a personal declaration of all income, but it is not clear whether this refers only to those *called upon* (par. 24) or to *all* (par. 30 (5)).

If the latter is meant it would simply cause trouble and annoyance to hundreds of thousands of people with very little corresponding benefit. The former would naturally be necessary to carry out the scheme for the super tax.

The Bearing of the Death Duties on Graduation and Differentiation

It is pointed out that the death duties have always been regarded as deferred income-tax, and evidence was adduced that the death duties were equivalent to an income-tax of 6d. in the £ on estates of £40 to £400 per annum, rising to 1s. on £4,000 to £6,000, and 1s. 3³/₄d. on £40,000 and upwards.

The original report suggested that the death duties appeared to afford the simplest and most practical means of achieving graduation and differentiation, but this was rejected (apparently without dividing the Committee).

On the whole, the report is not of a very illuminating character, and any Bill introduced with the object of placing the suggestions upon the statute book will require the closest scrutiny.

Weekly Notes.

The Long Vacation.

It is satisfactory to learn that the Lord Chancellor has announced his intention of causing an Order in Council to be prepared which will have the effect of making the Long Vacation begin on the 1st August, and to terminate on the 12th October in the future. This change, which there is every reason to expect will come into operation next year, is in accordance with a resolution passed at the recent annual meeting of the Bar. It differs, however, from the resolution unanimously passed at the recent Conference of the Law Society at Manchester, in that the actual length of the Long Vacation is in no way altered. Solicitors were in favour of its being reduced to two months from the 1st August. The more essential point is, however, now apparently to be conceded, namely, that inasmuch as practically the whole of the business world commences its vacation with the beginning of August, it is extremely inconvenient to litigants and witnesses that the Courts should sit for a further twelve days.

One-Man Companies.

The current issue of the *Law Journal* has a good word to say for one-man companies, which, it is pointed out, provide a very effective means of arrangement between debtor and creditors where the former is insolvent but is possessed of a profitable business. So far as our experience goes, we do not think that it is often that creditors are content to accept fully-paid shares in a one-man company in satisfaction of their respective claims; but cases are by no means uncommon in which they have accepted debentures payable over a very extended period, and certainly such debentures afford as good a security as that ordinarily obtainable under a composition. The trouble with debentures is, of course, that future creditors will come off badly if the business does not continue to pay after being turned into a limited company and subjected to the additional charges that usually obtain under such circumstances.

Income Tax and Secrecy.

In reply to a question asked in the House of Commons last week, the Chancellor of the Exchequer stated that the Board of Inland Revenue did not consider that any use made of income-tax returns within its own department, and for its own official use, constituted a disclosure of such returns within the meaning of the provisions of the law relating to secrecy in income-tax matters. He added,

however, that care was taken that only responsible officers should have cognisance of such matters. Any request for information coming from another department would only be considered in the event of its being preferred through him, and that up to the present he had not had occasion to consider in what circumstances (if any) such a request would be complied with.

The Colonial Stock Act, 1900.

It is announced that South Australia 3½ per cent Inscribed Stock (1926-1936) has been placed among the trust investments authorised by the Trustee Act, 1893, subject to the restrictions contained in Section 2 (3) of that Act. This is no doubt a good thing from the point of view of the Stock in question, but under existing conditions there would appear to be no very pressing necessity to extend the area of investments at present open to trustees.

Form in Accounts.

In reply to our correspondent "Incorporated Accountant," whose letter under the above heading appeared in these columns last week, we think that the usual practice is to debit the Appropriation Account with the gross amount of all dividends declared, whether or not such dividends are paid subject to deduction of income-tax, income-tax, where deducted, being debited to the Dividend Account.

Departmental Accounts.

The question asked by our correspondent "Departmental" last week is one that cannot be very helpfully dealt with in the space now at our disposal. We propose, however, to devote a short article to it at an early date as the problem is one which appears to be not very generally understood, doubtless owing in part to the fact that it lies a little outside the scope of an accountant's ordinary duties. As a purely academical question it would, of course, be quite easy of solution. The difficulty, however, lies in the fact that accounts do not exist for their own sake, but as a help in practical business; and in connection with Departmental Accounts, if one is too theoretical, it is quite easy to make them the very reverse of helpful.

Secret Commissions.

The Prevention of Corruption Act, which takes effect as from the 1st prox., gives a special importance to the query of our correspondent "Z. A." which we reproduced last week. The question as to what is, and what is not, a corrupt receipt or payment within the meaning of that Act is one which has, of course,

yet to be determined; but there can, we think, be little doubt that payments which are *per se* an infringement of the provisions of that Act are payments *ultra vires* a company, and, as such, payments which—after the close of the present year, at all events—cannot be passed by an auditor as being proper payments to be made out of either the capital or revenue moneys of a company. The best method of dealing with such payments would, we consider, be through the medium of the auditor's report, which, our readers will be aware, we have always held should be a document quite distinct from the certificate appended to the foot of the Balance Sheet.

Charges against Reserve Fund. In our issue of the 1st inst. a correspondent, signing himself "Auditor," raised a question as to the power of directors to debit charges directly to Reserve Fund, instead of charging them to Profit and Loss Account in the usual way. The question cannot, of course, be answered in any concrete case, save after reference to the company's articles of association; but, whatever the actual duty of the auditor may be in the matter, our own view has always been that the auditor's report should be something more than an empty formality. It should be a short and clearly worded statement as to the position and progress of the undertaking. If this practice be consistently adopted, there can obviously be no difficulty in continuing the practice of previous years; and thus, without undue emphasis, drawing the attention of the shareholders to the fact that the directors, presumably in pursuance of a power conferred upon them by the articles, have applied part of the Reserve Fund in the manner indicated.

Floating Charges and Equitable Mortgages. We think that our correspondent "R. A.," whose letter appeared last week, exaggerates the importance of the decision in *Re Standard Rotary Machine Company, Ltd.*, which although interesting in itself, raised no new point. It merely affirmed a principle already laid down, that a specific mortgage comes in front of a floating charge, even if created later—provided, of course, that both are valid in themselves. Our correspondent seems to think that this is an injustice to debenture-holders, and the law should be altered to grant them more protection. Our own view is, however, that any alteration that is likely to be effected in connection with debentures will have the effect of restricting, rather than enhancing, the rights of

debenture-holders, who as a matter of fact have really nothing to complain of in this instance, having agreed to take as security for their advances a floating charge, which left the directors of the company with full powers of conversion.

Executorship Accounts.

The letter signed "T. H. J.," which appeared in our Correspondence column last week, asks a somewhat elementary question; but as the point—in spite of its simplicity—is one upon which there appears to be a good deal of misunderstanding, it is, perhaps, worth dealing with at some length. Estate duty is, speaking in non-legal language, payable on all property of a deceased person according to its value on the date of death. If that property includes quoted stocks or shares, the Board of Inland Revenue base the valuation of these assets for estate duty purposes on the quotation. Unless the contrary be stated, all market quotations are *cum. div.*—that is to say, the purchaser at that price acquires the benefit of all dividends not actually paid on the date of sale. If, therefore, shares have been valued for estate duty purposes at a *cum. div.* quotation, the effect of including in the account a dividend unpaid at death would be to pay estate duty on that dividend twice over. Where the valuation for estate duty purposes is based on a market quotation, unless that quotation be *ex div.*, all accruing dividends must be ignored.

Income Tax and Life Insurance Deductions.

With regard to the point raised by our correspondent "Enquirer" in our issue of the 1st inst., it is a somewhat unprofitable task to laboriously consider what is the true effect of any section of the Income Tax Acts, as in practice the law is administered according to the views and interpretations of the Board of Inland Revenue. Apart from that, however, we think that the plain effect of Section 54 is that the right of a person assessed to claim deduction in respect of life insurance premiums shall not operate so as to entitle him to a larger abatement than he would have been entitled to had he not effected an insurance on his life. The wording of the section is quite consistent with this interpretation—which is, of course, the one that has always been put upon it by income-tax officials.

Shareholders and their Auditors—Professional Etiquette.

We consider that we are as keen as it is practicable for anyone to be upon questions of professional etiquette, but we do not think that in the long run much is gained by confusing regulations that are capable of being enforced

with questions of etiquette or conduct that must be left to the good faith of those immediately concerned. We have always expressed the view that when the auditor of a company is not re-elected, solely because in the due discharge of his duties he has found it necessary to disagree with the views of the board, it ought to be difficult for that company to find any accountant who will accept the post; but with regard to the question raised by Mr. Williams, we may point out that when one comes to talk about fees one must of necessity stand upon a less exalted plane. It is quite conceivable that a company, or the directors of a company, may come to the conclusion in all good faith that they are paying too large an audit fee. It is not a very common experience, but it is at all events conceivable, and in such cases, if the existing auditor declines to reduce his fee, we must admit that we do not altogether see why the remainder of the profession should be expected to boycott that company. The question here, it seems to us, is not one of principle, but one of degree, and we may add that (so far as we are aware) there is no rule of the Institute dealing with it one way or the other.

"After-Acquired" In deciding the case of *The Official Property*. *Receiver v. Cooke*, Mr. Justice Neville

expressed the hope that at no distant date the point with regard to real property, which is excluded from the general rule with regard to transactions by a bankrupt after his bankruptcy, might come before the Court of Appeal in order that it might be put on a more satisfactory footing. Our readers will doubtless remember that, until the trustee intervenes, all transactions by a bankrupt after his bankruptcy with any person dealing with him *bonâ fide* and for value in respect of his after-acquired property, whether with or without knowledge of the bankruptcy, are valid against the trustee. To this, as we have said, an exception is made in the case of real property, and as a result a bankrupt may acquire land or sell it, or raise money on it, without giving any title to the purchaser or the mortgagee, from whom, of course, the land can be claimed by the trustee for the benefit of the bankrupt's creditors on his finding out the facts.

Solicitors and the Interests of their Clients.

It was with some hesitation that we inserted the letter which appeared in our last issue under the above heading, for we cannot but feel that, however good grounds there may be for complaint in individual cases, experi-

ences of this description stated in general terms are apt to engender an unnecessary and particularly undesirable amount of bad feeling between the legal and the accountancy professions. For our own part, we do not think it at all surprising that solicitors, when they are called upon to accept responsibility, should prefer to employ firms of accountants with whom they are acquainted, and *per contra* we think that accountants similarly placed are entirely justified in employing solicitors upon whom they personally feel that they can rely. It is, we think, easily possible to over-do the doctrine of vested interests, and a death or other event effecting a change of ownership may, we consider, well be expected to afford an opportunity for reconsidering existing conditions. At the same time, we do not think that anyone can reasonably expect to change either his solicitor or his accountant without first paying what he may owe for legal or accountancy services, as the case may be. We may differ from our correspondents as to their ground for complaint at being superseded, but we quite agree that, having been superseded, they are reasonably entitled to ask for an immediate payment of whatever may be due to them. At the same time we may add that in the long run it seldom pays to be vindictive.

Industrial Ventures on Local Loans.

In these days it seems strange to read of a case where a well-known industrial company is reported to have lent an Urban District Council the sum of £20,000 for a period of thirty years at the very cheap rate of 3 per cent. There are, no doubt, many circumstances connected with the transaction which are mutually advantageous to both parties, but the incident in itself may perhaps remove from the minds of the ultra-municipalists some of the unreasonable bitterness which they exhibit towards limited liability concerns.

The Crossing of Cheques. A bank manager writes to *The Financial News* to point out that the difficulty

which has always arisen with regard to the question as to what constitutes a special crossing was illustrated recently in Scotland where a cheque crossed "account payee only" was negotiated and paid into the account of a firm other than the payee, and the proceeds paid by the negotiating bank to the transferee's account. When the attention of the paying bank was called to the matter, it is said that they argued that the words "account payee only" or "not transferable" were not a compliance with the Bills of Exchange Act, and that

no other words save "not negotiable" constituted a special crossing, all this notwithstanding the fact, of course, that the crossing "account payee only" has been in general use for many years past. Our contemporary's correspondent says that as the matter now stands the words "account payee only" are merely the directions to the receiving bank as to how the money is to be dealt with after receipt. This is the utmost significance which they bear in the present state of the law.

A Little Study in Ignorance.

At the Guildhall recently a director of a certain limited liability company was summoned for failing to forward the list of members and summary for 1903, and also in respect of 1905. The defendant actually stated in the box that he did not know that the holding of an annual general meeting was obligatory, although he was aware it was a custom; he also stated that he was a member of the Stock Exchange! This case might well engage the attention of the Institute of Directors.

The House of Commons and Municipal Trading.

In the House of Commons last week Mr. Jowett asked the President of the Board of Trade whether he had observed that there was not one municipal trading concern among the 8,593 cases of bankruptcy reported by the Inspector-General in Bankruptcy during the year 1905, and whether, in view of that and other conditions connected with the system of municipal trading, he would consider the question of the promotion of a Bill empowering municipalities to undertake the control of all such industries as a poll of the ratepayers might decide upon. Mr. Lloyd-George in reply was understood to say that bankruptcy proceedings did not apply in the case of municipal trading concerns, and their entire absence from the statistics of bankruptcy was, therefore, no indication of their prosperity or otherwise. We should have thought that this fact would have been pretty obvious to any person with any business experience. Mr. Jowett, however, may desire to go down to posterity as a humorist.

A Debenture-holder who was Annoyed.

The following amusing letter has been addressed to the editor of *The Financial News* :—

"SIR,—Yesterday I received from Guinness & Co., Lim., of which I am a debenture-holder, a notification that the company required me to forward, by post, to its bankers my certificate of debenture stock, stating also that, if received by December 21, a cheque will be

posted on the 31st inst. 'If received after December 21, a cheque will be sent as soon as possible.'

"What I want to ask you is this: Is it fair to hold out this threat, and, secondly, is it in accordance with ordinary business practice to demand that one shall part with the evidence of one's security—i.e., the written document—before the money thereby secured be paid? Would any mortgagee so consent to part with his mortgage before the borrower had paid? In my legal experience I have not so found it; nor would I or any counsel advise such a course. Surely, the debenture security is a mortgage, or a very analogous one!

"If you, sir, will give publicity to this letter, I think some useful correspondence on the matter might result, as it is a matter of public interest; because companies first obtain money from the public, and then elect to do as they choose. The subscriber parts with his money, and then the directors use it almost as they wish. In any case, the shareholder loses all control of his funds, and, in the case of a company such as Guinness, so soon as it is in a flourishing condition it reduces the interest on its debentures, or pays them off with scant courtesy.

"It seems to me that investing in a company is like playing at 'heads I win and tails you lose.'

"I beg to remain, yours faithfully,

"DEBENTURE-HOLDER."

We fail to see any threat in the first paragraph; the time limit seems to have been fixed for the purpose of preparing the cheques, and it is therefore merely a matter of clerical convenience; in the second place it is not usual "to part with the evidence of one's security," but as the ideal method of personally exchanging would probably be objected to by the debenture-holder, this is the least that the company can do. The statement with regard to public companies is, of course, mere idle twaddle. When debentures are subscribed for the terms of their issue are, of course, well-known, or should be so, therefore their repayment is merely a question of previous contract, or the exercising of an option which the company took in the original instance. With regard to the reduction of interest, this is again a question of contract, and if the debenture-holder does not like it, he can place his money elsewhere. The main feature of the letter seems to be a growl to the effect that having once invested in Guinness' debentures one ought not to be called upon to surrender them for the payment of principal and interest to date; but since our contemporary's correspondent drags in his legal experience, what does he think about the doctrine of no clog on the equity of redemption?

Stock Exchange Defaulters. Referring to the letter over the signature of "Dubious," which appeared in the issue of this journal dated the 1st inst., it may be pointed out that where a Stock Exchange defaulter handed over to the official assignee certain of his private assets it was held that this amounted to a *cessio bonorum*, and constituted an act of bankruptcy. We cannot find at the moment any distinct case where the mere hammering of the defaulter has been held to be an act of bankruptcy, but the regulations regarding acts of bankruptcy are so wide that there does not seem to be much difficulty in including this among them. Of course, the reason why so few cases arise is because where creditors outside the Stock Exchange are not prejudiced they have no need to inquire as to their rights and remedies. For various cases and interesting particulars regarding this point, we might refer our correspondent to "Wace on Bankruptcy," 1904 edition, p. 30.

The Income Tax Report. Our weekly contemporary *Commercial Intelligence*, in criticising the report of the Select Committee, mentions one good point that might well receive some consideration. It is to the effect that income-tax might be levied on all voters, even if it were but the slightest impost on small incomes; it is well said that many vote the distribution of sums which they do not help to raise.

Current Law.

BANKRUPTCIES AND INSOLVENCIES.

In re Hall; Ex parte Official Receiver. K.B. Div.

Held, that when a County Court Judge, in the exercise of his discretion, has stated what, in his opinion, a trustee ought to do as an officer of the Court, the Divisional Court will not lightly interfere. (The full report of this case should be studied.)—(*Times*, Dec. 6.)

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

Goodwill in Accounts.

[We must apologise for the mistake that appeared in our Correspondence column on p. 635. The case cited by Mr. D. W. Sinclair is quite correctly treated in Dicksee's "Goodwill" (pp. 102-110), but a more

careful study of the two problems shows that they are not "analogous." In the one case the value set upon the Goodwill is determined by the price asked for a fixed share thereof; in the other case it is clearly stated to be £800—a figure that cannot be subsequently altered at pleasure as the number of partners is increased.—Ed. *Acct.*]

(To the Editor of *The Accountant*.)

SIR,—I have been much interested to note that several other of your correspondents are, like myself, puzzled at the solution by Mr. Sinclair of the examination question cited by him.

I gather from his letters that in his opinion the examiner intends the value of the Goodwill remaining with A. and B. after C. has come in to be £400 each.

I confess I am unable to read this interpretation into the question as stated. If Mr. Sinclair is correct it appears to be very loosely worded. In practice no such vagueness as to the intentions of partners would arise.

It would be very interesting to hear at first hand from the examiner what exactly he did mean by the question, and what proportion of marks he awarded the candidates—possibly many—who "missed the whole point" and gave the answer in the form given by the "Students' Telephone."

Yours faithfully,

December 8th 1906.

GWENT.

(To the Editor of *The Accountant*.)

SIR,—Your correspondent, Mr. D. W. Sinclair, in your issue of 8th December makes a courageous effort to vanquish his critics, but fails to do so because he ignores the facts of the question as originally propounded by himself on p. 634 of your issue of 24th November. He informs us there that A. and B. paid £8,000 in equal proportions for the business, and subsequently admitted C. into partnership on the terms "that they first added to the price paid £800 for goodwill, and that C. brought in a sum in cash sufficient to make him an equal partner." Manifestly what is meant by the "price paid" is the £8,000, which, it seems superfluous to point out, stands for the whole price paid. Why, then, should Mr. Sinclair assume that the sum added to the whole price paid was not the whole value of the goodwill, but only two-thirds of that value? If the question, instead of mentioning goodwill, had stated that A. and B. added to the price paid £800 in cash, would Mr. Sinclair nevertheless have added £1,200,

instead of £800, to the sum in cash brought in by C. in order to arrive at the figure to be set against the item of Cash on the creditor side of the Balance Sheet? Clearly he would not have done so. According to what principle, then, should he treat goodwill differently from cash in the Balance Sheet, if goodwill be something that is real—viz., something which is convertible into cash at the figure at which it is valued?

Mr. Sinclair's view is that A. and B. in any case should receive "more as their proportion of the asset of goodwill than the incoming partner." But if A. and B. can claim a preference in respect of the goodwill, why cannot they also claim one in respect of the other assets; and why, above all, if C. alone has contributed cash, should not he receive "more as his proportion of the asset of cash"? In fact, if goodwill be properly valued, it is impossible to treat it differently from any other asset.

Yours faithfully,

T. KERR ANDERSON, LL.B.

December 10th 1906.

(To the Editor of The Accountant.)

SIR,—The extent and nature of the correspondence on the above matter in this week's issue of your journal leads me to ask you for your clemency in again trespassing on your space at some length.

In spite of its apparent egotism, I am forced to make the remark that without exception the comments of the five subscribers to your journal only exemplify and give force to the remarks of Lord Justice Cotton on a case upon this subject a few years ago, viz., "But, 'really, goodwill is a word of which few people understand the meaning.'"

I will deal with the points raised *seriatim*.

Mr. J. Kerr Anderson.—This gentleman, while professedly dealing with the matter from the point of view of law and fact, unfortunately does neither the one nor the other. He states that A. and B. "value the goodwill at £800"; they do not, they only value their share of it at that sum, otherwise how could they, in his own words, "demand £4,400 from C. for the privilege of 'joining the business as partner on equal terms with themselves'!" Would a person be stupid enough to pay £400 for a third-share of a thing worth £800? Here, again, he makes a "fallacious assumption" by saying that A. and B. contribute "£8,800 in the form of goodwill and other assets," what they do contribute is £9,200 in the form of goodwill and other assets, but their agreed proportion of that is only £8,800; thus A. and B. acquire

a two-thirds interest in £9,200, plus £4,000 in cash, upon payment by C., leaving £400 as premium paid to them for his share of goodwill—or, in other words, for being allowed to enter the business and obtain a larger interest on his capital invested, through the goodwill, than he would do elsewhere. In the same way as a person buying the shares, on the open market, of a prosperous company has to pay a premium for them.

Once again, this gentleman makes another mistake by deliberately misquoting my remarks and saying that I state, "A. and B. obtain nothing by this arrangement"; what I do say is that A. and B. "obtain 'nothing as their share of the amount introduced by 'C. in respect of goodwill'—a very different thing. Of course, each partner is credited with the extent of his interest in the assets—viz., his capital.

But what I wish to enforce is that, legally—and here I meet Mr. Anderson on his own ground—A. and B. are "justly entitled" to a half each of £400, the amount paid by C., as shown above, in respect of a premium for entering the business. Upon this point (it is already *res judicata*) I would refer him to *Reynolds v. Bullock* (47 L.J. Ch. 773) and *Pawsey v. Armstrong* (18 Ch.D. 698), in which it was stated by the Vice-Chancellor that it is now settled that goodwill is ordinarily a distinct part of the property of a trading partnership.

I would further refer him to Allan upon "The Law of Goodwill," in which he states: "Where one of the 'partners on paying a sum of money has been 'admitted to the business, this sum of money is 'usually called a premium, and it goes not to the capital 'of the firm, but to the private estate of the person to 'whom it is paid,' so that he cannot argue that, 'ubi jus incertum, ibi jus nullum.'"

With regard to the remarks of Mr. H. Norman, a prospective candidate for the Intermediate, and Mr. L. A. Reddall, I shall have to content myself with saying, "Valeat quantum valere potest"—viz., "Let it pass for what it is worth," as space will not permit of any further digression.

As to those of "Discipulus," I append the Balance Sheet in the three stages which he mentions, which I hope will elucidate the matter for him.

Finally, I would say, "Tempori parendum" ("We must move with the times"), but that also, professionally, our watchword should not only be *en evant*, but we should be *en rapport* as amongst ourselves.

I am, yours faithfully,

December 10th 1906.

D. W. SINCLAIR.

(1)

Dr.	A. AND B.—BALANCE SHEET AS AT DATE OF PURCHASE OF BUSINESS.										Cr.	
	£ s d			£ s d				£ s d				
Creditors				2,650	0	0	Sundry Assets	10,934	0	0		
Partners' Capital Accounts:—							Less Reserve on Book Debts	284	0	0		
A., Cash	4,000	0	0							10,650	0	0
B., Do.	4,000	0	0									
				8,000	0	0						
				£10,650	0	0				£10,650	0	0

(2)

Dr.	A. AND B.—BALANCE SHEET AS AT DATE OF INCLUSION OF GOODWILL.										Cr.				
Creditors			£	s	d		£	s	d	Goodwill			£	s	d
Partners' Capital Accounts:—							2,650	0	0	Sundry Assets			1,200	0	0
A. Add Half-share Goodwill			4,000	0	0					Less Reserve on Book Debts			10,934	0	0
			600	0	0								284	0	0
							4,600	0	0						10,650 0 0
B. Add Half-share Goodwill			4,000	0	0										
			600	0	0										
							4,600	0	0						
							£11,850	0	0						£11,850 0 0

(3)

N.B.—The Balance Sheet of A., B., and C., when C. has paid in sufficient cash to make him an equal partner, is shown in your issue of November 24th 1906, p. 635.

(To the Editor of The Accountant.)

SIR,—Referring to my letter which appeared in your issue of the 8th inst., there is a slight mistake on my part. When I commenced my letter I had not *The Accountant* to refer to, and was under the impression that the capital of each of the two original partners (excluding goodwill) was £8,000; it was, I find, £4,000. I delayed the completion of my letter for several days until I could get at the figures to enable me to insert the sum showing the division of assets between the five imaginary partners (and there you will see I have the correct figures), but did not revise the other portion.

Apologising for any trouble I may have caused your readers,

Believe me, yours faithfully,

Devizes, 11th December 1906.

H. NORMAN.

(To the Editor of The Accountant.)

SIR,—May I again trespass on your valuable space for the purpose of refuting Mr. Sinclair's criticisms on my letter of the 27th of November 1906.

Mr. Sinclair quotes me as having stated that "I would show" that the amended Balance Sheet as drawn up by him and approved by you was incorrect.

If he will read my opening remarks in my previous letter he will see that I only expressed the *hope* to be able to show him and you that the Balance Sheet was incorrect (a statement since supported by so many of your correspondents).

Mr. Sinclair states emphatically that I have missed the point. I contend that it is he who has done this, not me.

I am afraid the task of convincing anyone who, for instance, reiterates the statement that the goodwill is £1,200 when the question distinctly states it to be £800, to be beyond my powers.

Mr. Sinclair has apparently looked at the question as if it was labelled *Cave canem*, the dog in this case being some subtle trap laid for the unwary student by the examiner.

Even after Mr. Sinclair's "lucid" explanation of his views I have failed to discover the pitfall. The question appears to me to be quite a straightforward one.

Mr. Sinclair further charges me with contradicting myself, but I take this opportunity of denying the soft impeachment. Mr. Sinclair should take the motto quoted by himself (namely, *Festina lente*) more to heart, as, if he had gone a little more slowly and carefully, he would have noticed that, far from "ignoring the very existence of the asset of £800," I included it among my figures in the correct proportion of one-third to each partner, and so arrived at the figure of £4,400, representing each partner's Capital Account (see p. 665).

I utterly fail to understand Mr. Sinclair in the statement he makes "that whatever the agreed amount of "goodwill, it has the effect of making the original "partners' interest in the assets unequal, unless they

"are paid out their proportion of the premium paid by the incoming partner."

This is the first time the word "premium" has been mentioned in this discussion, and it certainly does not appear in the question.

I think Mr. Sinclair must be confusing Goodwill and Premium.

That any amount of cash brought in by C. should be treated as premium is news to me, and is evidently not intended by the question.

I think the extraordinary statement (see p. 697) compiled by Mr. Sinclair, and, as he says, "derived from my figures," speaks for itself as a pretty good example of 'juggling with figures,' a fault of which he accuses

Yours faithfully,

BASIL D. G. BALL.

London, 12th December 1906.

(To the Editor of The Accountant.)

SIR,—It was with interest I read the various replies to Mr. Sinclair's letter in your issue of the 24th ult. and I am sure to any student the replies are very confusing owing to the great diversity of opinion expressed, and I think the different treatment of the accounts is owing to the way the question is put and also the standpoint from which it is viewed. Before proceeding further it is well to understand the question, and I think this is where the chief difficulty has arisen. The first point is that they are to be equal partners, but they may be so by agreement, irrespective of the amount standing to the credit of their Capital Accounts, hence clearly what is meant is that they shall have the same amount standing to their Capital Accounts, or, in other words, on an immediate dissolution they would each receive the same sum of money, and so be equal partners in this sense. On this reading of the question it is evident that any answer in which the Capital Accounts of A., B., and C. are unequal is wrong. The next point to consider is, What is to become of C.'s money? And this entirely depends on the stipulations A. and B. make with C. on admitting him—i.e., whether all his money shall be placed to the credit of the firm and not be paid partly into the firm's account and partly to A. and B.'s private accounts; and from the form of the question I do not see any reason why all the money should not be paid to the firm's account, but am inclined to think that if it had been meant otherwise it would have been stated in the question, as against this argument Mr. Sinclair suggests that by adopting this course A. and B. do not derive any benefit by

admitting C. May I submit that they do get a benefit, and a benefit which is usually in practice sought on admittance of a partner—viz. the introduction of cash into the business, hence I do not see why A. and B. should pocket any of the money paid in by C. unless there is an agreement (which we are not informed of) that they should do so. Another point that occurs is the question of the Goodwill Account, and I should like to know what need there is to alter the Goodwill Account from £800 to £1,200, as per Mr. Sinclair's amended Balance Sheet, when the question clearly states that the partners first add £800 to the price for goodwill. Why not increase the Goodwill Account to £1,500 or any other sum, if it is to be altered at all, and so alter all the Capital Accounts—viz., £4,500, or leave the Capital Accounts at £4,000 and pay out of the cash provided by C. £250 each to A. and B. for their own private accounts? I think the question of the inflation of goodwill is not required, as it could be done to any extent, and why should it stop at £1,200 simply because A. and B. each paid £400? If it is inflated beyond £800 it only means more money being put in the business by C. Another point against Mr. Sinclair's amended Balance Sheet is that C. is paying £400 for the raised paper asset of goodwill, whereas the method adopted by *The Students' Telephone* shows that the assets have been increased by good assets—i.e., cash—to a corresponding amount of liability to C. Mr. Sinclair has practically treated the question as though A. and B. were selling the business to A., B., and C., and charging £400 for goodwill, and I fail to see in the question any warranty for this supposition. I certainly think the treatment of the accounts as shown on p. 634 correct, but owing to the ambiguous way the question is set, which is often the case with examination questions, the amended Balance Sheet as on p. 635 is also feasible, but that too much has been taken for granted which is not set forth in the question.

Yours faithfully,

CHAS. LEIGH, A.S.A.A.

Income Tax.

(To the Editor of The Accountant.)

SIR,—Referring to "Enquirer's" letter in your issue of December 1st 1906, it appears to me that the conclusion of the fourth paragraph should read as follows: "Thus, if a man's income is £165 and he pays £4 in life premiums he only bears tax on £1, but if he pays £6 he will not be entitled to deduct it, but can claim

"allowance on production of receipt, and will not have to pay any tax."

The deduction of life insurance does not enable the taxpayer to claim a higher rate of abatement, as per following example:—

A man is in receipt of a salary of £410, and pays life insurance £30. He would be assessed as follows:

Salary	£410
Less Abatement	150
	260
Less Insurance	30
To pay on	£230
Not as Salary	£410
Less Insurance	30
	380
Less Abatement	160
	£220

I think "Enquirer" will find that the man who pays £6 life insurance premiums out of an income of £165 will be exonerated from tax, as I know similar cases have been allowed.

Yours faithfully,

R. CRAMPTON.

Huddersfield, December 4th 1906.

(To the Editor of The Accountant.)

SIR,—I should like your opinion, or that of your readers, on the following point:—

In May 1904 a client of mine purchased a public-house and a small brewery business. It afterwards transpired that the proprietors of these businesses had in the past paid very considerable sums under Schedule D, and unquestionably very much more than they ought to have paid. No proper books of account were kept by them, and they seem to have calmly paid anything the Revenue authorities thought fit to demand. My client received an assessment for 1904-5 under Schedule D for an amount very considerably in excess of what he was earning. I submitted a first year's accounts to May 1905 to the Surveyor, who fully recognised the injustice to my client of treating the businesses as successions when no accounts for the two previous years' trading were available; he promised me that if I would let my client pay the tax for 1904-5, according to the assessment made, he would consider the matter with the view to making an adjustment when the next year's accounts were available. This I agreed to, and my client paid the amount

assessed on him for 1904-5 under protest. No assessment whatever was made on my client for 1905-6. A change of Surveyors has now taken place, and the new Surveyor writes me, after I have explained the situation to him, "that he has endeavoured without success to arrive at a basis on which he can submit to the Commissioners a recommendation for a repayment for 1904-5 and reduction of assessment for 1905-6. The Act prescribes that in the case of a succession accounts for three full years are required, notwithstanding the change, and such accounts are not forthcoming. He regrets, therefore, that in the absence of accounts for three consecutive years he can do nothing in the matter. The assessments for 1905-6 must stand, and the duty in arrear paid. The assessments for 1906-7 and 1907-8 must be made on estimate, leaving me to my remedy under the 133rd Section in the case of the latter year."

Yours faithfully,

December 11th 1906.

C. C.

Licensing Act, 1904, and Income Tax.

(To the Editor of The Accountant.)

SIR,—Referring again to the above subject, and to Mr. Daniel Hill's letter in the last issue of your paper, we cannot see that brewers or brewery companies have any chance of getting the compensation fund charges allowed as a deduction from profits for income-tax purposes as the law now stands, although, as stated in our earlier letter, it appears to us a very considerable hardship. As we understand the matter, the only method of obtaining such an allowance would be by an increase, by Act of Parliament, of the statutory one-sixth at present allowed for repairs and insurance, &c., under Schedule A, such increase to approximate to this new charge, and, of course, to apply to licensed property only. The trade referred to in the fourth clause of Mr. Hill's letter must mean (as is shown by his quotation from the Act) the trade of the publican, as distinct from that of the brewer, and where the brewer carries on the former, as in the case of houses under management, he is now allowed to charge the compensation levy. As owner of tied houses, however, we do not see how he can get an allowance except by an alteration of the present statutory "one-sixth." Otherwise, to mention one difficulty, a private owner would be in a worse position than a brewer owner, in that the former might have nothing against which to charge the levy, if allowed. It is in a great measure owing to the terms of the tenancy agreements which usually obtain between brewers and their tenants,

taken in conjunction with the Scale of Deductions in Schedule II. (Section 3) of the Licensing Act, 1904, that the present hardship arises, and it seems to us only equitable that there should be a revision of the allowance of "one-sixth" to meet an entirely fresh charge imposed by the recent legislation.

We remain, yours faithfully,

RAWLINGS & WILKINSON.

Sunderland, 11th December 1906.

Touting.

(To the Editor of *The Accountant*.)

SIR,—Referring to your remarks in *The Accountant* dated 1st December, on the subject of "Touting," may I add to my letter published in the previous week's issue that the trustee in possession courteously extended facilities to his opponents for investigating the books of the estate in question, with the result that they extracted an identical statement of affairs, and satisfied themselves that everything was above-board. One would have thought an eminent firm of accountants would have gracefully retired after having taken these steps, for if they had their clients' interests at heart they would certainly not have advised the replacing of the trustee already appointed, or taking the estate into bankruptcy, as both these courses would entail expense, which would be to the detriment of their clients' interests. However, the proceedings of the firm in question were as follow:—They communicated with the trustee in terms approaching to intimidation stating he must either retire in their favour or share the trusteeship jointly, failing which the debtor must expect bankruptcy (always sheltering themselves, of course, behind "clients' instructions"). This action can only bear one interpretation, which is obvious to any business man.

It is quite time that steps were taken to convey to these firms in unmistakable language that the transgression of the unwritten laws of the profession would be taken serious notice of.

Yours truly,

ALPHA.

December 6th 1906.

Stock Exchange Abuses.

(To the Editor of *The Accountant*.)

SIR,—I understand that the public have no protection against any inflation or slump in the shares of a company that has obtained an official quotation by fraud, as when a quotation is once granted the rule is that it is not afterwards revoked, not even on facts which would have induced the Committee to refuse

With a view to the protection of all concerned against cornering, by promoters riding through the rules of the "House" and securing the public privilege of making a market for their shares then, unloading on the public at inflated prices through dummies, I have submitted the under-noted suggestions to Mr. Hichens, the Chairman of the Stock Exchange Committee, for his consideration, namely:—

- (1) The appointment of an auditor, who should be an experienced accountant, to audit, in conjunction with the auditor of the company applying for the quotations, all the books and documents required by the Committee before granting a quotation for the stock or shares of any company.
- (2) That no quotation be granted without the auditors' joint certificate, in addition to the usual statutory declaration, certifying that, so far as they are able to ascertain, the public unconditionally hold two-thirds of the shares and that the rules of the "House" have been complied with.
- (3) That all transfers be made for full consideration and nominal consideration prohibited. At present, promoters or directors can, by filling in a nominal consideration transfer stock, or shares of any value to dummies on a 10s. stamp, and so hoodwink the public.

By riding through the rules of the Stock Exchange, the directors of a company, some time ago, were able to raise the market value of their undertaking one million at least, and though it was declared before a Commissioner for Oaths that the public unconditionally held two-thirds of the shares, it will be found that the directors received the bulk of the million. The result is that shareholders who purchased at the inflated price received a dividend of 3 per cent., and those who purchased at the market price got something over 4 per cent., while the promoters received 22½ per cent. on their invested capital.

Yours truly,

A. A. McDONALD.

Newcastle-upon-Tyne, 11th December 1906.

Personal.

MR. FREDK. T. P. DEYES, Chartered Accountant, announces that he has commenced practice as a Chartered Accountant at 5 Cook Street, Liverpool. For nearly 20 years he has been with Messrs. SIMON JUDÉ & WEST, Chartered Accountants, Liverpool, and acted as their managing clerk for the last 12 years.

The Chartered Accountants' Benevolent Association.

THE Honorary Secretary forwards us a second list of new subscriptions:—

ANNUAL SUBSCRIPTION INCREASED.

INCREASE OF TWO GUINEAS.				£	s	d
Page, F. P.	..	..	New York	..	2	2 0

NEW ANNUAL SUBSCRIPTIONS.

Beard & Bashforth	..	..	Sheffield	..	1	1 0
Deyes, F. T. P.	..	..	Liverpool	..	1	1 0
Dunstan, A. H.	..	..	Birmingham	..	1	1 0
Hardy, Frank	..	..	London	..	1	1 0
Hossell, S. H.	..	..	Birmingham	..	1	1 0
Hunt, W. F. J.	..	..	Portsmouth	..	1	1 0
Lancaster, M.	..	..	London	..	1	1 0
LeB. Lean, F. W.	..	..	London	..	1	1 0
Leman, F.	..	..	Nottingham	..	1	1 0
Leman, T. C.	..	..	Nottingham	..	1	1 0
Ogle, W. S.	..	..	London	..	1	1 0
					£13	13 0

The Chartered Accountant Students Society of London.

Seventh Annual Dinner.

THE seventh annual dinner of the Chartered Accountant Students Society of London took place on Thursday evening, December 6th, at the Hotel Cecil. Mr. Ernest Cooper, F.C.A., presided, and there were also present Sir Edgar Speyer, Bart, Sir John Denison-Pender, K.C.M.G., Sir T. Skewes-Cox, Mr. Wm. B. Peat, F.C.A. (President of the Institute of Chartered Accountants), Hon. George Colville, Messrs. D. F. Basden, F.C.A., C. Hubert Cooper, T. Croysdale, J. S. Feather, C. E. Fletcher, A.C.A., E. H. Fletcher, F.C.A., W. Fossick, W. H. Fox, F.C.A., Alfred C. Harper, F.C.A., Daniel Hill, F.C.A., W. H. Hill, H. Woodburn Kirby, F.C.A., G. Walter Knox, B.Sc., F.C.A., T. Markby, W. Plender, F.C.A., Leonard Adams, F. C. Allwork, A. C. Anderson, J. G. Andrew, W. Apie, G. F. Baguley, Edwin H. Beazley, Ernest E. Bishop, A.C.A., C. F. Bird, A.C.A., J. W. Bothwell, H. H. Bowden, A.C.A., R. M. Browne, J. J. Campbell, A.C.A., H. Cane, A. L. Chew, A.C.A., Percy Child, A.C.A., H. D. Christie, A.C.A., J. F. Christie, A.C.A., A. L. Cocke, A.C.A., H. G. Cocke, A.C.A., C. Erling Collins, Edward Davis, A.C.A., C. Denny, C. K. Denny, J. H. Dixon, A.C.A., A. F. Dodd, F.C.A., J. F. Drake, F.C.A., Claud E. Ellis, A.C.A., A. F. Ferguson, A.C.A., C. C. Fox, A.C.A., G. F. Glen, T. E. Goodyear, F.C.A., P. Gow, A.C.A., E. M. Greene, J. S. Greene, W. J. Grey, Herbert Guedalla, A.C.A., Lawrence Hanray, A. R. Henry, H. L. Hill, H. G. Howitt, Harold W. Humphries, E. James, A.C.A., Russell Kettle, A. W. King, A.C.A., H. G. King, A.C.A., G. W. Kingston, Herbert Lanham, A.C.A., H. A. Laurence, C. A. Lepper, R. H. Mackay, K. J. Mackenzie, Lionel Maltby, A.C.A., W.

Marriott, G. A. Masters, C. Percival Maw, A.C.A., E. McKeown, W. J. Menzies, C.A., T. E. Milward, J. Myers, W. C. Northcott, C. J. G. Palmour, A.C.A., A. H. Partridge, A.C.A., Alfred G. Pearson, A.C.A., — Porter, A. M. Powell, A. R. Powell, A.C.A., E. E. Price, F.C.A., Martin Price, G. H. Redfern, A.C.A., E. A. Redmayne, A. L. Samuell, H. L. Shoveller, A.C.A., F. S. Sloman, A.C.A., A. C. Smith, W. B. Stone, A.C.A., A. J. Sturges, H. Holton Sturges, A.C.A., Sydney A. Tansley, V. G. Teale, W. L. Threlford, G. S. Thompson, F. R. Thornton, Cecil Tompson, J. R. Tullock, E. F. Underwood, A. E. Veale, A. L. Vellacott, A. G. West, A. F. Whinney, F.C.A., E. T. Wilkins, W. Wilkins, L. Pascoe Williams, A.C.A., J. B. Woodthorpe, P. Woodthorpe, A. D. Wykes, *The Accountant, The Tribune, The Standard, Morning Post*, Sydney G. Cole, F.C.A. (Secretary), F. G. Bowers (Chairman of Committee).

Sir Frederick Banbury and Mr. J. S. Harwood-Banner, M.P., F.C.A., were unfortunately prevented at the last moment from being present.

After the usual loyal toasts had been honoured,

Sir Thomas Skewes-Cox gave "The Institute of Chartered Accountants," remarking that the students, at any rate, looked upon this as the toast of the evening. They regarded the Institute as something to be aspired to; they were grinding away year after year with the firm desire of some day becoming Fellows of that Institute. They became grey and bald-headed early in life—(laughter)—but on behalf of the Institute he might say that those connected with that body had never met with a more intelligent or better looking lot of young gentlemen than they saw before them at that banquet, and with that sentiment he was sure the students would agree. (Laughter.) The students, he was sure he might say, wished every prosperity and long life to the Institute. They knew that when they became members of the Institute, or examiners, they would make the examinations as stiff as they possibly could—(laughter)—in order to keep out as many accountants as they possibly could, so that they might have a selection of the fittest members of the profession to compose the Institute. The Institute of Chartered Accountants was becoming known throughout the world; it was held in the highest esteem, and although rumours of registration and so on were heard from time to time, he, as one not belonging to the Institute, but having the greatest regard for its members, hoped it would for ever cherish the name of "Chartered Accountant," and see that those two words, which were their own copyright and their own goodwill, were never interfered with. (Applause.) The older members of the Institute, like the intelligent young gentlemen of whom he had been speaking, enjoyed some relaxation now and then, for they played golf. (Laughter.)

Wherever people might go they could always find a member of the Institute who was ever ready to play a game of golf. That was quite right, for any exercise of that kind must keep the intelligence keen, and that was what they all desired in an Institute of this kind. He did not know whether Mr. Peat, the President of the Institute, whose name he associated with the toast, played golf, but doubtless he did, for he was younger looking now than he was twenty years ago, and his memory was as keen as ever. Some years ago he was permitted to join in the congratulations which were offered to the Institute upon obtaining its Charter, and he was pleased now to recognise the continued ability and intelligence which were displayed by those who conducted its affairs. He proposed this toast with all possible heartiness and sincerity, in the hope that the students whom he was addressing would some time in the future become members of this august body. He understood there was a grant made by the Institute every year to the Student Society of some £250 or £300, and he was glad to know the Institute had substantial invested funds. It made the mouth of a City man water to know that the Institute's noble building, which had cost them some £50,000, had been paid for. The Institute had invested capital, too—first-class gilt-edged securities, duly audited by some accountant who was already a member of the Institute and did the work without fee or reward. It was nice to know that within a body like this no fees, or very few fees, were charged, though the fees were very heavy to anybody else who obtained the assistance of the members. (Laughter.) He was not going to say they did not deserve those fees, for they came in just at the time they were wanted, and there was no brighter moment in the life of a member of a joint-stock company than when he found a Chartered Accountant's certificate at the foot of his accounts, stating that he had seen every voucher and was able to certify to the correctness of those accounts. When such a certificate, signed by a Chartered Accountant, could be shown, it went without saying that nothing had been concealed. (Applause.) In conclusion, he had very much pleasure in asking those present to join with him in wishing long life and prosperity to the Institute of Chartered Accountants, and coupling with the toast the name of Mr. W. B. Peat, its President. (Applause.)

Mr. W. B. Peat, F.C.A., President of the Institute, in acknowledging the compliment, thanked Sir Thomas for the very kind remarks he had made in proposing the toast. In addressing a company of this character it was almost needless to remind them that they were the young blood which was to infuse and enrich the body of the Institute, that their lives in course of time were to take the place which he and those sitting on his side of the table occupied at the present time, that it was for the younger men in the future as it had been for the older ones in the

past and in the present to support the dignity and honour of their great Institute. He had the greatest hopes that the gentlemen whom he was now addressing on the opposite side of the table would all be able in course of time to receive their certificates, and that none of them might have the regret of looking at the door of the Institute and finding their names were amongst the missing. If they were missing for a while, let them take heart of grace, and their admission would simply be a matter of time. He wished to refer to this important consideration, that while they, as the Institute of Chartered Accountants, were the representatives and constituted the most important body of professional accountants in the kingdom, they were also for that very reason the people who must look after the interests of professional accountancy in this kingdom and abroad. (Hear, hear.) He reminded them that from the Institute had sprung many men who had travelled to every corner of the globe, who were representing the Institute in every civilised country; and wherever commerce had been carried by English-speaking people, there they would find representatives of the Institute, mostly young men who had become members in comparatively recent years. They were surrounding the whole world with a living chain of Chartered Accountants, and he hoped that state of things might long continue. This export of the genius of the country was one of the greatest of our exports, and he hoped it might still be so. Whatever might be their views upon fiscal policy, he had no doubt all present would agree with him that it was desirable that this Institute should export its members to wherever the trade of this great kingdom was carried; and it was a consolation to friends such as he had around him, representing the great interests of trade, commerce, and finance in the City of London, to know that there were men of the capacity of those trained by the Institute who were ready to go anywhere, to any part of the world, to look after the accounts which were submitted to them. (Hear, hear.) It was a pleasure to have such gentlemen with them on that occasion, and to have them recognising that there was such a body as the Students' Society and also such a body as the Institute of Chartered Accountants. In their capacity as an Institute of Chartered Accountants they had the interests not only of themselves, but also of every professional accountant in this country at heart. He would even go the length of saying that not only did they represent the professional accountancy of this country, but they in some measure represented the professional accountancy of Canada, the United States, Australasia, and South Africa. In all, he believed, there were something like thirty-eight separate Institutes of professional accountants in the United States and the Colonial Empire. Something like twenty separate Societies, he believed, existed in the United States, and something like eighteen in Canada,

Australia, New Zealand, and South Africa. For all these the Institute was more or less responsible, because he believed they had to a large extent copied the principles and practices of the Institute, and were its offspring; and while the progress of the Institute had been most remarkable, he was sometimes reminded that even the grain of mustard seed with its great spreading branches was something which might be compared with the Institute, which had grown from small things and spread out its branches in every corner of the globe. He was inclined to think that the present was the time when they ought to make one more forward move—when they should ask that legislative recognition be given to the profession of Chartered Accountants. (Hear, hear.) They had many duties to perform, and most important ones; great responsibilities rested upon them in connection with those duties, and it was their duty and ought to be their pleasure—not alone for themselves, because he did not look upon the selfish part of the matter as of great importance—for the sake of every professional accountant, for the sake of their clients, and for the sake of the trade and the interests of this great country and of the Colonies, to endeavour to obtain legal recognition for the profession, not alone for themselves, as he had said, but for everyone who had a right to describe himself as a professional accountant. They required legal recognition which would exclude a man without the right to describe himself as an accountant, but which would embrace every man who had that right. He meant that everyone who by education or by experience was practising and professional accountant should be enrolled in the legal protection which he hoped in time they would secure. That should be their next move, and that move, he believed, they could only undertake in association with their friends, amongst whom he would name the Society of Accountants. (Hear, hear, and a voice: "No.") Of course, he spoke in this respect for himself alone, if he might be permitted to do so; but certainly, in his opinion, they could only obtain that legal recognition by associating themselves in the application for it with others who were professional accountants practising in this country. He did not think they could ever go forward alone and get that legal recognition. It was a poor, selfish policy which would allow them to go by themselves, and possibly seek a thing which they would not gain, and he did not believe that that selfish policy would in the end be successful. He had heard some little dissent from the observations he had made, and therefore, so far as what he had said was concerned, he asked them to regard it as his personal opinion, and not necessarily the opinion of anybody else. (Hear, hear.) The life they led was an arduous life and full of responsibility. They never knew exactly when their works and their certificates would find them out. They could not, like poor Charles Lamb, say—

"O, darling laziness, saints' eternal rest,
That I could drink vast portions of thee,
Through unmeasured eternity."

Their's was a case of hard and continuous work—practically never ending from the rising of the sun to its setting. They could never quite escape the responsibilities which they undertook as Chartered Accountants. He asked those who in course of time were about, he hoped, to become members of that most important body, the Institute, to keep in mind—though he did not desire to deliver them a moral lecture—that it was only by hard work, by conscientious attention to their duties, and by the attempt to discharge to the satisfaction of their clients and to their own satisfaction the responsibilities and the duties which they were called upon to perform, that they could ever hope to attain to that high position. If they realised this important fact, those who in course of time took the places of the older men sitting around him would not find it necessary to admit that the progress of the Institute, which in the last thirty years had been most remarkable and most continuous, need diminish by one jot or iota under their care as compared with its present members. He was exceedingly grateful that the toast had been received in such a cordial way. (Applause.)

The Chairman then called upon Sir Edgar Speyer, Bart., to propose the toast of the evening.

Sir Edgar Speyer, Bart., who was very enthusiastically received, said that in rising to propose the toast of "Success to the Students' Society," he was painfully conscious of his shortcomings. His feeling of embarrassment was increased by the statement just made by the Chairman that this was the toast of the evening. He hoped they would not blame him for what, he was afraid, must in the nature of things be a disappointing speech. He was surrounded by the leading members of the accountancy profession, for whom he entertained the greatest respect, and of whom he stood in great awe. He felt that to speak there was a hazardous undertaking. He would have carefully to keep out of complicated questions of account and remain on the safe ground of accountancy in its broad aspects. If they blamed him for that, their remonstrances should go to his friend Mr. Kirby, who had enticed him there that night, and who must take all the responsibility for such a rash step. (Laughter.) He would be quite frank with those whom he was addressing, and, even at the risk of hurting their feelings, would make free to confess that when Mr. Kirby first came to him and laid his trap, and caught him, he (the speaker) did not know of the existence of the Society. Thanks to Mr. Kirby, his neglected education had been improved in that respect, at any rate, and a somewhat belated addition to his knowledge had taught him to appreciate the usefulness and importance of the Students' Society and to understand its

great scope. To know its scope and its activity was to enlist immediately his warmest interest and sympathy, and to make him appreciate the Society as a great educational feeder to the Institute of Accountants. In order to inform himself, he had been looking at some of the examination papers, and had tried to familiarise himself with some of the questions that were set—such as Partnership Accounts, the rights and duties of liquidators, bankruptcy law, arbitration, and what not—and the insight into what the students were expected to master had, if possible, increased his respect for their profession and for their proficiency, and at the same time had filled him with a feeling of awe—awe of the unknown. (Laughter.) He would tell them in strictest confidence that if he were put through his paces in those subjects he would feel most uncomfortable, and to climb the accountant's ladder as the students had to do would be a most perilous journey for him. (Laughter.) He would certainly require a good deal of coaching if he were going to succeed, and coaching of the most severe kind. But, after all, what was an accountant? What was his profession? That was a question which he had put to himself before coming there that night. He had consulted Webster's dictionary, and he found that an accountant was a man who rendered account, a man who was skilled in accounts, a man who was a reckoner; but he ventured to think that nobody who took a narrow view of his profession would succeed in the true sense of the word. It seemed to him that they should all impart to whatever work they were called upon to perform that element of higher aim, that element of imagination, which raised it from its ordinary day to day character to a higher level, to a larger aspect. (Applause.) And so it was with their profession. Their first duty, of course—he spoke to the young gentlemen who were training to be accountants—was to strain every nerve to master the art of accountancy, to learn the machinery of their trade. But that was not enough. They must not forget what the higher conception of their profession demanded of them. In his opinion, to be a real—or had he not better say to be an ideal—accountant was to champion truth—(hear, hear)—to live and fight for truth, to train themselves to be accurate in all things, to be honest to themselves and to others. That was something to live for. That was what their vocation really meant, and it was something to be proud of. He had recently had an opportunity to appreciate the great importance of good accountancy, having been a member of the Committee appointed by the President of the Board of Trade to investigate the present state of company law. His views as to the state and condition of that law had been embodied in a minority report, and he could only hope that in time the views he had expressed would find acceptance at the hands of those who had the power to amend the law. Meanwhile, one of the few

safeguards—if not the only safeguard and the only check—against abuses was the knowledge that good accountants were, happily, available to probe and, when necessary, to expose those facts and figures which it fell within their province to examine and report upon. He attached the greatest possible importance to this, because it was the real and substantial protection which was afforded to those who had to invest their money and to trust to honesty in commercial life. His advice, therefore, to the young men who were training to be Chartered Accountants was to be proud of their profession, to be keen about their work, and not to forget that they were not mere reckoners, but that they were to be advisers even, and friends; to those who relied upon sound investigation in the best sense of the word. Their knowledge could not be too wide. Finance, business principles, and political economy should not be unknown to them, neither should that knowledge of the world which gave them confidence in themselves and would beget confidence in others. Nor should sympathy—that great quality—be absent from their work. If it were, both they themselves and their clients would be the poorer for it. But above all, as he began by saying, they were seekers after truth; they were important elements in the great business fabric of the day; they were great elements in the commercial life of this nation; they were upholders of that straightforward dealing upon which the commercial life of this country rested, and which had made this country the great country that it was. (Applause.) It was a great pleasure and satisfaction to him to know that the Students' Society was growing, just as the Institute itself was growing, and it was only by these means that the immense importance of Great Britain in the destinies of the world could be maintained. They as a profession were one of the pillars of commercial morality, and he hoped that might always be the case. He trusted that the young men whom he was addressing might be ornaments of their profession, and uphold that high standard for which those who had gone before them had been renowned and honoured—the standard of thoroughness, honesty, and truth. He had much pleasure in giving the toast of "Success to the Students' Society," coupled with the name of Mr. Bowers. (Applause.)

Mr. F. G. Bowers (Chairman of Committee), in replying, said that each year when the Dinner Sub-Committee came to consider the toasts, there was a suggestion made by the Chairman of the Committee for the time being that he would really not mind if the Sub-Committee would like to ask some person other than the Chairman of Committee to acknowledge this toast. That suggestion was made this year again, but the Committee did not see their way to adopt it. It was not made because the Chairman of the Committee was not aware of the honour and privilege which fell to him to address such a gathering, but rather

because he felt that the words of someone older than himself, and someone more experienced in the world, would better befit the occasion. As, however, he was occupying this position he asked their indulgence, knowing it would be granted, especially because he had to follow such an eminent and distinguished gentleman as Sir Edgar Speyer. Like Sir Edgar, he had recently been engaged in the study of Partnership Accounts, but he imagined the anxiety which was on his mind while he was engaged in that study, knowing that he would have to face a piece of pink paper very soon afterwards, was not exactly the same as that which was experienced by Sir Edgar. At the same time, he could agree with that gentleman that the problems which the examiners set were not too simple. The students certainly did feel and were quite conscious that they were striving to enter a very worthy and honourable profession—a profession which in the past had held a great place in the public esteem; and they were hoping and striving that when it became their turn to take their places among the ranks of Chartered Accountants they would be worthy of the honour thus placed upon them. An eminent statesman quite recently, when entering upon a very famous controversy, advised them that in the study of any institution it was well to go a good way back. The time that he recommended was thirty years. Well, if they went back thirty years in the history of the Students' Society, they would find about the same kind of records that they would find if they went back thirty years in his own life. The records could be found only in the book of the chronicles of the "not-thought-ofs." (Laughter.) At the same time, he would like to submit some sketch of the great progress the Society had made since it was started in 1883. In 1886 they had only 200 members; they had now four times that number. The cash turnover in the last twenty years had increased by eight times. The library possessed ten times the value it did at that time; and the circulation of their books had increased twenty-fold. He thought he could claim that the progress of the Society had been nearly as prodigious as that of the Institute. (Applause.) Then the number of those who were still trying to enter the accountancy profession had increased in an equal proportion. By the kindness of Mr. Colville he found there were now about 1,400 articled clerks. Twenty years ago there were one-fourth of that number, and ten years ago there were less than two-thirds. If the profession went on increasing at that rate he could fancy they would have some weak-minded members suggesting that they would not last against Chinese immigration, that candidates should be required to satisfy the five-pound test, or that they should have a Chinese cousin at Liverpool ready to find work for them. But of the 1,400 articled clerks it would be gratifying to this gathering to know that 1,200 were members of the Students' Society at the present time. But what should

they say of the 200? It was to be hoped they would see the error of their ways at once and proceed to join the Society. (Hear, hear.) They had present at that banquet Mr. Dodd, the Chairman of the Union of Student Societies, and several representatives of that body. That Union had, he was informed, been of very great assistance to some of the provincial Societies. Quite recently members of several of those Societies had been telling him how useful they found the lecture list which the Union had drawn up, and only in the last few weeks a deputation of the Union waited upon the Grants Committee of the Institute in order to ask them if they could not see their way to help further the poorer Students' Societies, which had now hardly any libraries at all, and in some cases absolutely none. In one case where there was one he noticed that during the last financial year they were enabled to spend the large sum of 16s. 8d. in the purchase of new books. He thought those present would agree that if the Institute had funds at its disposal available for any purposes of the kind it could not spend them better than by putting some of the money at the disposal of these smaller Societies for the purchase of standard books of accountancy, which the students sitting for their examinations could have the opportunity of reading, marking, learning, and inwardly digesting. (Applause.) Since he had had any share in the management of this Students' Society he had been very much struck with one thing—viz., how great was the goodwill which was exhibited by the older members of the profession towards this Society. Whenever they called upon one of the heads of the profession, who very likely had been engaged the moment before in the solution of some extremely difficult and anxious problem which had been confronting him, they were received with really great goodwill, and readiness was shown to help the Society in any way that lay in the power of that gentleman. This was most satisfactory, and it was a matter for great congratulation, so far as the Society was concerned, that it should be so. But he had been speaking more particularly of the grandfathers of the profession, if he might so call them. If, however—regarding themselves as the younger brothers—they considered their fathers and elder brothers, he was sorry to say the position was not the same. He might be wrong—and certainly there were very many notable exceptions—but he did feel that their fathers and elder brothers in the profession did not exhibit towards the Students' Society that warmth of interest and readiness to help which was found among the heads of the profession. There were 1,300 Chartered Accountants in London, and more, but of these 1,000 were not members of the Society. Now if only half of those were members of the Society they would be able to do one thing which was greatly desired by the Committee—viz., to have a

large, useful, and ample library of books of reference which they could lend out to the members. This would be a real boon to the honorary members. The Society, when they went to prospective honorary members, would not feel that they were asking them to give something—that it was a donation that they were asking for—but would be able to feel they were offering value for money; and he urged it upon all members present that they should approach the members of the Institute in London who were not members of the Society, and ask them to join, because he felt that if they could only get a fair proportion of those who were not already members to join the Society, they would be able to return those gentlemen really good value for their money. (Applause.) They did feel as students that they were trying to enter an honourable profession, and the Committee felt that in managing this Society they were wielding one of the most potent instruments in the fashioning of future Chartered Accountants. The task did certainly weigh rather heavily upon them sometimes, to make the best use of the resources and funds that were at their disposal, but he could assure those present that the Committee did their utmost, and if they failed he asked those whom he was addressing to believe it was not for want of a very earnest desire to succeed. Mr. Cooper, speaking at the first dinner of this Society seven years ago, said he felt the Students' Societies were the most important organisation connected with the profession in the country, that they were really doing good work, and that if they continued to do it the Institute would have no difficulty in fulfilling the fundamental clause of its Charter, which was "by setting up and maintaining a "high standard of professional and general education and "knowledge." He hoped it had not been the Chairman's misfortune to have to change his opinion during those seven years. The Students' Society had grown and had become strengthened during that time, and it would be a great pity if they were not more useful than they were when Mr. Cooper used the words just referred to. In further remarks, the speaker said that as the Chairman of the Committee for the time being usually received the credit for the musical programme at the dinner, he wished to explain that on the present occasion the thanks of those present were due entirely to Messrs. Myers and James in this respect. In conclusion, he thanked Sir Edgar Speyer and the others present for the cordial way in which they had drunk the toast of "The Students' Society." (Applause.)

Mr. W. H. Fox, F.C.A., proposed the health of the Chairman, claiming that this and no other was the toast of the evening. He would not address the company at any length, because he did not believe in praising a man before his face; but they all knew Mr. Cooper's reputation and the position he held in the profession. He was

a Past President of the Institute of Chartered Accountants. He (the speaker) claimed to be in a special position in proposing this toast, and that was that many years ago—he would not say how many, for he might be looked upon as one of the grandfathers of the profession to whom the Chairman of the Committee had just referred—he was one of Mr. Cooper's staff of clerks, and it was certainly his belief at that time, and was still, that there was no office in the City of London or in England in which a better training could be obtained than in the office of Mr. Cooper's firm. When he said there was no other office, of course he excepted one, which was not the office of Mr. Knox, who was sitting close to him, but that of a firm whose name rhymed with Knox. (Laughter.) However that might be, they all had to express their opinions, and did not all agree with each other, and perhaps he was the only one who agreed with himself on the present occasion. (Applause.) He might mention in this connection that when Mr. Cooper was made President of the Institute twenty-three of his former clerks who were old practising accountants gave him a dinner at the Savoy, and he (the speaker) did not believe it would be possible to find any other firm in connection with which such a thing as that could be done—no firm would have so many cast-offs as that in the City. (Laughter.) He remembered telling Mr. Cooper's partner, when he left the firm, that he was going to start for himself, whereupon that gentleman looked at him in a very pitying manner, and was doubtless very sorry for him—as his clients had since been. (Laughter.) But he was getting a little too personal—the subject was the health of the Chairman. He had one advantage in proposing the last toast of the evening, because a speaker in that position was able to pick up a few points from former speeches. When one became a grandfather of the profession his sight got bad, and his handwriting worse, and he was not now in a position to make notes for a speech, because he could not read them if he wrote them. (Laughter.) There was only one occasion—at an autumnal meeting—when he had had the honour of making an extempore speech, but in order to make that he sat up until 3 o'clock on the previous morning preparing extempore jokes. (Laughter.) Reference had been made to the subject of what was an accountant, and there was one definition which had not been given—one which he always gave to people who asked him a question on the subject—and that was that he was a person who told his clients at the end of the year how much they had lost. (Laughter.) Then reference had been made to fiscal policy. Well, of course, they were not politicians there, but as the King had been spoken of as being our best asset, he was tempted to remark, What frightful liabilities we had in the present Government! (Applause and cries of "Oh.") He was very sorry that he had allowed himself to

be diverted into a channel which he ought not to enter, though he was very pleased to hear those present applaud that sentiment. (Laughter.) On the question of fiscal policy Mr. Peat expressed the hope that no export duty would be put upon English Chartered Accountants. Well, he agreed with that gentleman entirely, but he did think an import duty should be put upon Scotch accountants. (Laughter.) He did not mean that at all personally—he meant members of Scottish Societies of Chartered Accountants. He had some twenty-six or more around him, within a stone's throw of his own office, and could hardly walk out into the street without knocking up against one or more of them. He trusted, in conclusion, that the toast of "The Chairman" would be very enthusiastically honoured. (Applause.)

Musical honours having been accorded to the toast,

The Chairman thanked Mr. Fox for the very kind way in which he had proposed the toast. He recollected very well when Mr. Fox was a member of his firm's staff, and also the regret they experienced in losing him. He was very glad to hear that Mr. Fox had founded the best office in the City of London—(laughter)—and he cordially recommended everybody to send their sons as students to his office in order to learn their craft. He wished to congratulate the Society upon the success of the present gathering. It seemed to him, from what Mr. Bowers had said, that he (the Chairman) had been placed in his present position as a kindly compliment from those who were crowding upon the stage, and wanted to push off some of the older ones, on the ground that they had been there long enough. (Cries of "No, no.") He quite agreed. He would like to be squeezed off the stage when he was able to go, and could assure Mr. Bowers that he and those associated with him in the Institute had a most kindly feeling towards those who were seeking to displace them. He thought they might also congratulate themselves upon the position of the Institute which, in time, they were going to join. That Institute had shown a most remarkable development. Twenty years ago he had occasion to investigate and poke about in order to find the origin of the practice of a Chartered Accountant. He could not get it any further back than the year 1776. He was at that time occupied in preparing a paper to be read before the first autumnal meeting of the Institute, which was held at Manchester. He traced back the profession of accountants to one firm in the year 1776, and he hoped that firm would not be forgotten. It was the firm of Shortney & Millne—the only firm that appeared in the London Directory; and he did not suppose any other firm appeared in any other directory. They were commercial accountants. That was, so far as he could find out, the beginning of the profession. He followed it up until forty-four years later there were forty-four members exactly—that was in 1820—in the

London Directory. To-day, he did not know how many there were in the London Directory, but there were 3,500 in the Institute of Chartered Accountants alone. That was certainly the most remarkable development that could ever have taken place in any profession since the world began, so he thought they might congratulate themselves upon their extraordinary power of development, and they might congratulate the students upon coming into a profession which had such an extraordinary power of expanding itself. Then perhaps he might refer to the changes which had taken place in the profession, in just a word or two. When he entered the profession, a little more than forty years ago, there were certain names that attracted him—the names of Coleman, Quilter, Harding, and so on—and those gentlemen were engaged, so far as he understood at the time, in a few bankruptcies and liquidations. So matters have gone on, but the present position was that they looked upon liquidations, bankruptcies, and things of that kind as a small matter. They had come to be, as Sir Edgar Speyer had very kindly suggested, something in the nature of the guardians of morality, and of the commercial and financial life of London and of the country. That was a most honourable position to occupy. He had been very much impressed by what Sir Edgar said, and hoped they had all taken it to heart and recognised that that was their mission—that they had to take a high tone and consider themselves, in their capacity as auditors, as watching over the commercial repute of the country. A Chartered Accountant's certificate had achieved a remarkable reputation in the country. It was looked upon, so far as he had been able to judge, as something that one could trust. Why was this? Looking back over the forty years and more during which he had been in the profession, he could not recall a single instance in which an accountant had been accused of giving a corrupt certificate. Others might recall it, but he could not. Careless, indiscreet certificates, unwise certificates, foolish certificates there had been, but a corrupt certificate he had never heard of. (Applause.) That went to explain why the certificate of a Chartered Accountant had the repute which it had to-day. Certainly he had no recollection in connection with the Institute of one of their members—although there had been many offences which had come before the authorities of the Institute—ever having wilfully given a corrupt certificate. That, he thought, was a matter upon which they might congratulate themselves—both those in the Institute and those who were entering the profession. Well, Mr. Waterhouse two years ago told them that the profession of accountancy was in its infancy, but Mr. Peat a year or two ago told them that the Institute was a nursery. Well the two positions were not quite consistent, for the infant could hardly have a large family; but the profession of accountancy had a family of some

thousands of children coming on. Having mentioned the name of Mr. Waterhouse, he wished to say that that gentleman had expressed very great regret at not being able to be present. He saw Mr. Waterhouse on the previous day, and told him it was his duty to come, but he explained that owing to his condition of health he was unable to come out at night at this time of year. In conclusion, the Chairman remarked that from what Sir Edgar Speyer had said he was entitled to say this much, that if they might not be proud of the profession and of the Institute they were entering, at all events they need not be ashamed of it. (Applause.)

During the evening an excellent musical programme was carried through, a large number of the items being of the humorous order and being evidently thoroughly acceptable. The evening from first to last was spent very pleasantly, thanks to the gentlemen who were responsible for the arrangements.

Factory Accounting as Applied to Machine Shops.—IV.

By JOHN WHITMORE.

(From *The Journal of Accountancy*, New York.)

I described to you in the last article the way in which the cost of having and maintaining factory capacity is divided up so as to determine the cost of having and maintaining each unit of the factory capacity, that is, as far as machine-tool units are concerned. And I described to you how the factory capacity, actually utilised in making the various products of the factory, is charged into the respective Cost Accounts for the various products. You will remember that the method of doing this is to divide the total annual expense of a machine by the number of hours during which, according to a careful calculation, the machine should be actually used in the course of a year, thus arriving at the expense of the machine per hour; and then to record the time the machine is engaged on the individual job, or article being produced; and finally to multiply the hourly rate by the time and to charge the resulting figure into the cost account for that job, or article; and by means of the monthly summary drawn out from the Machine Rates Ledger, to charge that same figure into the Manufacturing Account in the General Ledger, for, as must constantly be borne in mind, the Manufacturing Account in the General Ledger is always kept in agreement with the sum of the open Cost Accounts.

And you will remember that I said to you that inasmuch as machines may be idle, not only for that small proportion of their time which under the best management may be unavoidable, but also from lack of business, or from faults in the shop management, or because machines are

ill adapted to the work of the shop; and inasmuch as the expense of machines when they are idle from these latter causes is no part of the proper and necessary cost of the article produced by the machines in operation; therefore this expense of machines idle is not, either with the greatest propriety, or with the greatest convenience or usefulness, charged into the cost of the articles produced, but is charged to a separate account for idle capacity. This completes the disposition of the expenses which were absorbed in the machine rates.

You will further remember that for these debits to the Manufacturing Account in the General Ledger and to the Idle Capacity Account in the General Ledger, the corresponding credit is made to a General Ledger Account entitled "Machine Rates Account."

Now the expenses which have been absorbed into the machine rates are, first, a proportion of the following, representing the cost of factory space:—

- Interest on Investment in Land.
- Interest on Investment in Buildings.
- Repairs to Buildings.
- Depreciation of Buildings.
- Heat and Light.
- Taxes on Land and Buildings.
- Insurance on Buildings.

Second, the whole of the following, representing the cost of machinery:—

- Interest on Investment in Machinery.
- Repairs to Machinery.
- Depreciation of Machinery.
- Taxes on Machinery.
- Insurance on Machinery.

And I described to you how the machine rates might also include expenses which would be represented in the General Ledger by three additional accounts, viz.:—

- Special Supplies.
- Special Superintendence.
- Special Tools Expense.

I told you that the cost of factory space is distributed at least to the following:—

- Cost of Power.
- Machine Rates.
- Storehouse Expense.
- General Factory Expense.
- General Office Expense.

The charges for factory space to the General Ledger Accounts representing these expenses should be made monthly, a fixed monthly charge to each according to the floor-space ascertained to be taken by each, at the cost per square foot of floor-space determined as I described to you. When these debits are made, a corresponding credit has to be made, and for this purpose a General

Ledger Account should be opened entitled "Factory Space Account."

Now I am going to set out the principal working accounts in the General Ledger of a machinery manufacturing business, in order that we may see just what they are and what their relations to each other are, and in order to bring out clearly the point at which we have arrived in considering their character and the manner of keeping them, and in order to see what accounts remain to be considered.

First, we have the three accounts which represent the stock of materials, and goods in process of manufacture, and finished goods. I have described the Stores Account fully to you, and I have partly described the Manufacturing Account, and I have, I think, pretty fully indicated the way in which the finished Stock Account is kept, the manner of keeping it being indeed parallel with the manner of keeping the Stores Account.

Then there are the accounts representing the cost of factory space, being, as I have just said, the accounts for interest on investment in land and buildings, and for taxes on land and buildings, and for building repairs and depreciation and insurance, and for light and heat. And against these debit accounts we have the credit account entitled "Factory Space Account."

Then there are the accounts representing expenses of having and maintaining machinery, and the first of these expenses is the proportionate cost of factory-space, which may be charged to a "Machine Space Account." These accounts would therefore be:—

- Machine Space.
- Interest on Investment in Machinery.
- Repairs to Machinery.
- Depreciation of Machinery.
- Taxes on Machinery.
- Insurance on Machinery.
- Special Supplies.
- Special Superintendence.
- Special Tools Expense.

And against these debit accounts we have the credit account entitled "Machine Rates Account."

And in the next place there are the accounts representing the cost of power. The first item in this cost is the charge for factory space occupied by the power plant, and a "Power Space Account" may be opened to take this charge. These accounts will then be:—

- Power Space.
- Interest on Investment in Power Plant.
- Power Plant Repairs.
- Power Plant Depreciation.
- Fuels.
- Water.
- Firemen's Wages.
- Engineers' Wages.
- Power Plant Supplies.

And against these debit accounts we will open a "Power Credit Account," which will be credited with the cost of power as it is distributed. The way in which it is distributed is one of the things I want to describe to you this evening.

And then there is the Storehouse Expense Account, of which I have spoken, and this is charged with the storehouse space, storehouse wages, and sundry storehouse expenses. It is also charged with interest on the average investment in materials in the storehouse.

I should perhaps have spoken before of the account to which interest on investment is credited when it is charged to the several divisions of the expenses. This account may be called "Interest Credit Account." It is credited with the interest on investment which is part of the factory space charge, and with that which enters into the machine rates, and with that which enters into the expense of power; and then with the interest charged to Storehouse Expense Account; then with interest on the average goods in process of manufacture, which is part of the factory general expenses; and, finally, with interest on the capital employed at the selling end of the business, which is part of the commercial and not of the manufacturing expenses. So that this "Interest Credit Account" is credited with interest on all the capital employed in the business. Against this credit there will be found in the regular Interest Account the expense of interest on borrowed capital, and the difference between the two is interest on the capital stock which we started out to provide in our cost figures.

I think I ought to warn you that this is a method of my own, and that as far as I know it is not used except where I have used it, and that it is without other authority, unless that authority be found in the logical necessities of the accounting, and in the practical usefulness of the method.

We now have certain remaining expenses which are purely general expenses—that is, general to the operations of the single department or individual shop, or general to the operations of the whole factory. The accounts for these may be:—

- Shop No. 1, General Expense.
- Shop No. 2, General Expense.
- Factory General Expense.

And the charges to these, and the manner of absorbing these expenses in the Cost Accounts, is another thing I want to talk to you about this evening.

I have as yet said nothing about the labour accounts. The whole subject of directly productive labour I hope to take up in my next article. The treatment of indirect or general labour will be practically covered by what I say this evening concerning the treatment of department, or individual shop, general expenses, and factory general expenses.

Of course directly productive labour is distributed to the Cost Accounts for the various products, exactly as the labour is recorded as being expended on each; and, of course, the total of it is charged to the Manufacturing Account in the General Ledger, which must be kept in agreement with the Cost Accounts. When this is done, and the distribution of the power expense is complete, and the distribution of indirect, or general expenses, is complete, the Cost Accounts and the debit side of the Manufacturing Account will be pretty nearly complete also.

If a power plant consisted of one or more boilers supplying steam solely to one or more engines developing power to be transmitted by a common means for the purpose of running the machinery of a single manufacturing plant, and if, as I suggested in my last lecture, no distinction should be made in the cost of the unit of power, which we will consider as the horse-power hour, at the machines, whether the power were transmitted a greater or a lesser distance, we could very easily make a distribution of the power expense to the various Cost Accounts. Knowing the total of the power expense, it would be necessary to ascertain as closely as possible the units of power delivered at the machines, and dividing the expense by the number of units, charge the respective operations with the resulting figure, multiplied by the number of horse-power taken by the machine in operation, multiplied by the running time of the machine.

There are two ways to ascertain more or less closely the units of power delivered at the machines. One is for the engineer to make a series of determinations of the power developed by the engine, and of the power lost in transmission, to arrive at the power delivered at the machines, these determinations being of sufficient number, and taken at such times, and over a sufficient period of time, so that the average of them shall pretty surely represent the average operation of the shops. And the other is to determine as closely as possible what power each machine takes, on an average of its operations, when actually running, and then to get a record of the running time over a sufficient period, and arrive at one's conclusion by this apparently more direct but still fallible method. By using the two methods in conjunction with each other, and each with care and perseverance, one could doubtless arrive at pretty correct figures.

But the distribution of the power expense is less simple than this, because as a rule the operations of a power plant are of a less simple character. Moreover, the method outlined would by no means be in conformity with the principle of analytical Cost Accounts, inasmuch as it merely aims to determine a cost figure, and not to show with all the clearness possible the conditions which are affecting the cost.

Steam is generally used from the boilers for more than a

single purpose. It may be used for heating, or for the operation of pumps, or for the operation of two or more engines used for entirely different purposes, or for all of these. It is absolutely necessary under these circumstances to get some measure of the steam furnished by the boilers for the several purposes for which steam is furnished.

For the two purposes of the accounts—viz., to constantly control the efficiency and the economy of the operations, and to accurately determine and distribute costs, it is necessary first that a current record be made of the steam produced, and the conditions under which it is produced, and the cost of producing it; that is, of the coal consumed, and the water evaporated, and of the temperature of the water that goes into the boilers, and of the boiler pressures. Then a record must be kept of the engines operated, and the power developed must be arrived at as closely as possible by the means I have described, and the pounds of steam used by each engine for each unit of horse-power developed must be determined, and so an account made of steam consumption to set against the record of steam produced.

It is, however, necessary to make an initial and tentative distribution of the steam expense on the basis of an engineer's calculations, just as the power charges are first made in the Cost Accounts on the basis of such calculations. If careful and thorough records are kept, the credits for steam and the credits for power set up on the basis of these calculations will be compared with the records of steam and power generated and with the cost of the same, and calculations will be gradually corrected.

The steam expense, of course, includes the charge for boiler space and fuel storage space, and interest on the investment in boilers, and all the expenses of operating the boilers and keeping them in repair, and writing depreciation off from them. The total steam expense having been arrived at and divided up in the first place according to the engineer's calculations of the ways in which the steam is used, we have the beginning of our calculation of the cost of power furnished to the machines.

The cost of power furnished by an engine consists of the proportionate charge against the engine for factory space, interest on the investment in the engine, expense of operating, and repairs and depreciation, and the cost of steam used. The total of these being arrived at, and the average power developed by the engine and the average power consumed in transmission having been determined, the total expense is divided by the horse-power calculated to be available at the machines, and the cost per horse-power is arrived at.

You will remember that I said to you that while it is somewhat laborious to determine accurately the expense of the individual machine per annum in order to arrive at a just hourly machine-rate, nothing is simpler than the use,

in the Cost Accounts, of the machine rates, once determined. In the same way, while it is somewhat laborious to determine even approximately the cost of the unit of power taken by the machines, the use in the Cost Accounts of this figure, once determined, is as simple as making any other conceivable charge in the Costs Accounts to represent the expense of power. And while in all factory accounting it must be carefully aimed to secure economy in the current work, pains must not be spared in the occasional and special work which should give the current work both simplicity and soundness.

We now have the engineer's calculation of the average power taken by each machine when running, and we have a calculation of the cost of the unit of power at the machines. We need a record of the actual running time of the machines, and we can then make the charge for power in the various Cost Accounts, charging the total to the General Ledger Manufacturing Account and crediting it to the General Ledger "Power Credit Account."

You will remember that I told you that the labour tickets made out by every workman doing directly productive work for each job worked on, show the workman's number, and the job, and the machine tool used; and the time; and that this information is transcribed on the workman's Weekly Sheet where his wages are determined, and that the postings of machine time are made from these Weekly Sheets to the Machine Rates Ledger, in which an account is kept for each machine, and that from the Machine Rates Ledger postings of machine rates are made to the Cost Accounts.

I want now to explain to you how the power charge is brought into the Machine Rates Ledger, and how the posting from the Machine Rates Ledger to the Cost Accounts includes both the machine rate and the power rate.

We have the total time the machine is engaged on the job, and inasmuch as the machine is not actually running the whole of this time, we need to know the non-running time in order to deduct it and arrive at the time for which power is chargeable.

For this purpose a record of the non-running time is kept in the shops. The sheet used for the purpose is like this:—

NON-RUNNING TIME—Week ending.....

Workman's Number	Job No.	Machine No.	From		To		Extension	
			Day	Hour	Day	Hour	Hrs.	Min.

And now I want to show you the complete Machine Rates Ledger form.

MACHINE NO.....
Machine Rate..... Power.....h.p. Rate.....

Workman	Job	From			To			Total Time		Power		Exten- sion	Posted Cost Ledger
		Day	Hr.	Min	Day	Hr.	Min	Hrs	Min	Hrs	Min		

As far as the "Total Time" column the entry is made from the workmen's Weekly Wages Sheets, and the "Power Time" is arrived at by taking the non-running Time Sheet for the same week and deducting the non-running time recorded for the particular job and the particular machine.

It is not attempted to record on the non-running Time Sheet every little interruption of the running. The plan is to make a record of the time taken to adjust machines for the jobs, and to put the materials in the machines; and of the time elapsing after the machine stops running until it is actually released for the next job; and in no case to record non-running time under a certain limit, at which it is seen that the difference in the power charge begins to be immaterial.

You will see that the accuracy of all extensions and all footings in the Machine Rates Ledger can be easily proved by extending the footings of total time and power time at the respective rates at the head of the account.

And, further, concerning the Machine Rates Ledger, I will repeat to you what I said last week, changing it only so as to include the power item which I was excluding then, because I had not yet explained it to you:—

"The charges of machine time and of power having been posted to the Machine Rates Ledger for a given period, which it is convenient to make even weeks instead of the month, inasmuch as the postings are made from Weekly Sheets, a statement is drawn off from this Ledger in the following form:—

Machine No.	Time Charged	Amount	Idle Time	Amount	Power

"The idle time for each machine being, of course, the difference between the time charged, and, if the period is a four weeks' period, four fifty-second parts of the number of hours into which the machine expense for the year was divided. Then a Journal entry is made:—

—Dr.—

—Cr.—

Manufacturing Account
Idle Capacity Account

Machine Rates Account
Power Credit Account

"the debit to the Manufacturing Account being for the

"charged machine time and the power, these being what are "posted into the Cost Accounts."

And now it is necessary that I describe to you the ruling of the Cost Accounts, because I am coming to the matter of the charges in these accounts for indirect expenses; and as the charges of indirect expenses are based on two or three classes of direct charges separately, it is necessary to provide separate columns for these different classes of direct charges, so that the total of each may be readily available and the charges for indirect expenses made accordingly.

The form of the Cost Ledger Account will then be something like this:—

SHOP ORDER NO.

For.....

Date	Particulars	Materials	Direct Labour	Machine Rates	Sundries	Total	
						Dr.	Cr.

Now the Storehouse Expense Account, which, as I have told you, consists of the charge for factory space, storehouse wages, and sundry expenses, and the charge for interest on the average investment in materials in the storehouse, is absorbed in the Cost Accounts by charging a percentage on the total of the Materials column. This percentage corresponds to the ratio between the annual storehouse expense and the value of the materials drawn out of store in the course of the year.

Next we have the Department, or Individual Shop, Expense Accounts. These consist in each case of the department foreman's wages, the wages of any clerks in the department, and any other wages of purely indirect and general labour; then the expense of sundry general supplies; then a proportion of the expense of the Tool Department furnishing small tools for general uses to the departments as they need them, and receiving them back from the departments when the purpose for which they were obtained is fulfilled. And finally any other purely general expenses of the department.

And then there is the Factory General Expense, which includes all manufacturing expenses which not only cannot be connected with any particular job, but that also cannot be connected with any particular department. Such are the general superintendent's salary, and the charge for factory space for the general factory offices, the wages of watchmen and timekeepers, and interest on the average investment in work in progress.

Each department, of course, bears its own general expenses, and the productive departments together bear the factory general expenses. The basis of distribution which I shall propose is the same in the two cases.

You will see that we have clearly established the incidence of a very large part of the total factory expenses, and that there is nothing left but expenses which have no special traceable incidence, and that must be regarded as falling on all the operations impartially. The operations are operations of men and machines, the machine expense rising and the labour expense falling, or the machine expense falling and the labour expense rising throughout. So intimately are these two expenses related to and dependent upon each other that they were, in a quotation I read to you in my first lecture, called together the "total labour cost." I do not therefore propose to separate them, choosing one and rejecting the other, when I need figures which are representative of the total operations as a basis for the distribution of expenses which, as I have said, are without any special traceable incidence, and must be regarded as falling on all the operations impartially.

The charge for the general expenses of a department is therefore made by means of a percentage corresponding to the ratio between the total machine rates in the department plus the total direct labour to operate the machines fully, and the amount of the department general expenses; and this percentage is added in the Cost Accounts to the direct labour and machine rates of that department.

And the charge for the factory general expenses is made by means of a percentage corresponding to the ratio between the total machine rates in the factory plus the total direct labour to operate the machines in the factory fully, and the amount of the factory general expenses; and this percentage is added in the Cost Accounts to all the direct labour and machine rates.

In practice the two percentages are combined. That is to say, if the general expense percentage for Department No. 1 were 20 per cent. and for Department No. 2 25 per cent., with the general factory expense 20 per cent., then in the cost amounts the only figure used would be 40 per cent. to add to direct labour and machine rates in Department No. 1, and 45 per cent. to add to direct labour and machine rates in Department No. 2.

It will be noticed that these debits to the Cost Accounts are not posted from a statement previously compiled, but originate in the Cost Ledgers. It is therefore necessary to create a record of them, and this is done by having an account in the Cost Ledgers headed General Expense Credits, and when the debits are made in the Cost Accounts, corresponding credits are made in this General Expense Credits Account in the Cost Ledger, and the total of them is thence journalised for the General Ledger, as follows:—

Manufacturing Account

To General Expense Credit Account

so we have a General Expense Credit Account in the General Ledger also.

Now you will notice that the percentages for general

expenses were determined on the basis of full operation of the machines, and consequently a full pay-roll. How much the month's machine rates charged and actual pay-roll fall short of the full figures used as a basis can be easily ascertained, and the percentages upon the differences in the respective departments figured and a Journal entry made for the amount:

Idle Capacity Account

To General Expense Credit Account.

Then the Idle Capacity Account is charged with the whole expense of idle capacity, and the Machine Rates Ledger shows just what capacity idle is resulting in that expense; and the cost figures are freed from the fluctuating and confusing element of the expense of capacity idle that ought to be operated; and profits are determined on the basis of these cost figures; but against these profits is always set out the idle capacity expense that has to be deducted from them, giving thus the net result of the operations, subject always to certain adjustments of values that have to be made in respect of any shrinkages from the book value of any current assets.

Reviews.

Orchard's Tables for the Repayment of Loans, &c.

Compiled by J. A. ORCHARD, F.I.A.

London, 1906: Shaw & Sons, Fetter Lane, Fleet Street, E.C.
Fourth Edition. Price 17s. 6d.

This work comprises tables dealing with the repayment of loans by instalments, Sinking Funds, the amount of a single sum and of an annuity at future dates, and the present value of a single sum due a number of years hence, as well as the present value of terminable annuities. The number of different rates of interest are sufficiently exhaustive for all practical purposes, and the length of period covered is also in all cases ample. We think, however, that the tables would have gained somewhat in clearness had the lines been spaced a little wider apart. In other respects we have only commendation for this excellent work, the preparation of which must have involved enormous labour.

Official Directory of the Chartered Accountants of Scotland.

Wm. Blackwood & Sons, Edinburgh & London.

The 1906 issue of the Scottish Chartered Accountants' Year Book follows the lines of its predecessors. It contains alphabetical and topographical lists, together with a summary thereof, the names of the office-bearers of the three Chartered Societies and of the General Examining Board, together with a summary of the rules for admission to

membership, a syllabus of the prescribed examinations, and a list of the Scottish Students' Societies, with their office-bearers. Practically the only omission is that the summary of members is not added, and thus some little trouble is involved on the part of those desirous of arriving at any accurate information as to the manner in which Scottish Chartered Accountants are scattered throughout the world. One thing, however, is clear, and that is that a very large proportion of the members are no longer practising in Scotland.

Meetings for the ensuing Week.

Tuesday—INSTITUTE OF CHARTERED ACCOUNTANTS.—General Purposes Committee, at 3 p.m.

ROYAL STATISTICAL SOCIETY.—Paper, "Estimates of the Realisable Wealth of the United Kingdom, based mostly on the Estate Duty Returns," by Mr. W. J. Harris and the Rev. Kenneth Lake, B.A., at the Society's Rooms, 9 Adelphi Terrace, Strand, W.C.; 5 p.m.

Wednesday—KINGSTON-UPON-HULL CHARTERED ACCOUNTANTS STUDENTS' SOCIETY.—Lecture, "The Law as to Partnership," by Mr. Lawrence J. Kirkham, Solicitor, at the Hall of the Incorporated Law Society, Bowlalley Lane; 7.45 p.m.

Thursday—CHARTERED ACCOUNTANTS' BENEVOLENT ASSOCIATION.—Executive Committee, 2.30 p.m.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, Dec. 7th, was 151, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 87; Deeds of Arrangement registered, 64. The respective numbers in the corresponding week of last year were: Bankruptcies, 91; Deeds of Arrangement, 96—total, 187; being a decrease of 36. The total number of commercial failures recorded during the 49 weeks of the present year is 7,921; the total number recorded in the corresponding 49 weeks of last year was 8,518, showing a decrease of 597.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, Dec. 7th, was 157. The number in the corresponding week of last year was 181, showing a decrease of 24. The total number filed during the 49 weeks of the present year is 7,205; the total number filed in the corresponding 49 weeks of last year was 7,954, showing a decrease of 749.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending

Friday, Dec. 7th, amounted to £650,002, by way of addition to £2,032,571, previously issued by the same companies. The amount registered in the corresponding week of last year was £778,141, showing a decrease of £128,139. The total amount registered during the 49 weeks of the present year was £73,543,890 (in addition to the issues in previous years by the same companies), as compared with £75,229,383 for the corresponding 49 weeks in 1905, showing a decrease of £1,685,493.

The Profession in Scotland.

Scottish Chartered Societies' General Examining Board.

For the December Examinations being held by the above Board, the total candidates sitting were as follows:—

Preliminary Examination, on 1st December, 79 candidates, of whom 42 are from Glasgow, 18 from Edinburgh, 5 from Aberdeen, 3 from Dundee, 2 each from Kilmarnock, Greenock, and Skelmorlie, and 1 each from Stirling, Inverness, Ardrossan, Beith, and Paisley.

Intermediate Examination, on 4th and 6th December, 86 candidates, of whom 52 were from Glasgow, 21 from Edinburgh, 6 from Dundee, 2 each from Aberdeen, Greenock, and London, and 1 from Inverness.

Final Examination, on 3rd, 4th, 6th and 7th December, 42 candidates for the whole examination, 17 for the first division, and 42 for the second division. Of the total, 47 were from Glasgow, 32 from Edinburgh, 8 from Dundee, 5 from Aberdeen, and 1 from each of the following places: Kilmarnock, Paisley, Ayr, London, Bradford, Sheffield, Chester, St. Anne's-on-Sea, and Belfast. It is expected that the results will be made known before Christmas.

Accountants' Volunteer Company.

The annual dinner and presentation of prizes in connection with No. 6 (Accountants') Company, Queen's Rifle Volunteer Brigade, took place in the Brigade Head-quarters, Edinburgh, on the 24th ult. Captain and Hon. Major Wilson presided, and there were at the dinner other members of the Chartered Accountants' Society, and officers of the brigade.

Major Wilson submitted his annual report, from which it appeared that the company had worthily upheld its traditions. The three tests of superiority in shooting might be said to be, first, the musketry returns (showing the standard of marksmanship all over the company); second, the Commandant's Cup (showing ability to put forward a large and efficient team for shooting under service conditions); and third, the Brigade Championship (showing the possession of the crack team of six men for scientific shooting). These competitions were open to all the thirty companies of the brigade, and were, one a another, secured by No. 6. In

addition to such proficiency as a company, the prestige of No. 6 had been maintained at Bisley and elsewhere by its members. The year had been full of interest to all in the company, including, as it did, besides instructional parades, route marching, tactical exercises, and night attack. Mr. Robert Chapman, F.F.A., manager of the Caledonian Insurance Company, and an old member of the company, presented the prizes, and, after remarks by the officer commanding the battalion, an enjoyable musical programme followed.

Bank Rate of Discount.

April 5th 1906	..	..	..	..	..	..	3½%
May 4th	..	..	..	..	..	..	4%
June 21st	..	..	..	..	..	..	3½%
Sept. 13th	..	..	..	..	..	..	4%
Oct. 11th	..	..	..	..	..	..	5%
Oct. 19th	..	..	..	..	..	..	6%

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The Accountant

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TABLE "A."

A reprint of the new Regulations for
the Management of a Company Limited
by Shares.

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Leading Articles.

The Prevention of Defalcations.

THE correspondence under the above heading, which commenced in our issue of the 1st inst., deals with a subject which must always be of especial interest to accountants, however regrettable the circumstance may be. Those responsible for the inauguration of business systems do not appear always to realise with sufficient clearness that inadequate systems of control are liable to produce fraud, upon the principle of effect following cause. If the designers

of these inadequate systems were to be roundly told that it was no one's fault but their own that crime had been committed, they would probably be more surprised than indignant; and that, doubtless, would be saying a good deal. Nevertheless, speaking in general terms, the proposition can hardly be seriously disputed. We do not, of course, for one moment suggest that it is applicable to each individual case, and that under all circumstances fraud must follow upon inefficient control. What we do say is that fraud is in almost all cases begot of opportunity, and that it is most exceptional for anyone to commit a fraud in connection with accounts unless he feels reasonably sure that he will be able to put the deficiency right before the irregularity is detected; whereas an adequate system of supervision would give him no such assurance of safety.

The account given by our correspondent "A. B." of the frauds perpetrated upon his client is too fragmentary for us to form any but the vaguest impression as to the system of control (if any) formerly obtaining. It is clear, however, that this—like most other cases of its kind—is of a commonplace description, calling for no special ingenuity or skill upon the part of the thief, and that the defalcations have only been rendered possible by the systematic neglect of quite a number of safeguards that we should have supposed were well known to every member of the profession.

In the first place, the employee responsible for the forwarding to customers of periodical statements of account ought, under no circumstances, to have control of cash. If this safeguard be observed, no fraud, without collusion, can remain undetected for long. In the second place, no one having the handling of moneys

ought to be allowed the control of Ledgers—a precaution which, if observed, virtually safeguards the business against falsification of customers' accounts, save by collusion. In the third place, Ledger clerks, instead of being always kept on the same Ledgers, should be systematically moved round in irregularly recurring cycles, so that each in turn may (in the absence of collusion) discover any irregularities that may have been perpetrated by his predecessor. Fourthly, no one in any way connected with the bookkeeping or the handling of moneys should have access to correspondence until that correspondence has been first duly registered—a precaution which effectually prevents the suppression of communications of all kinds delivered by post. We do not, of course, say that these four safeguards by any means exhaust the subject; but, as we understand the facts, the introduction of any one of them would have rendered the continuance of the frauds for anything more than a few weeks, at the outside, absolutely impossible. Those of our readers who are interested in going further and more exhaustively into the matter will find much to the point in Vol. XXX. of "The Accountants' Library."

With regard to the precise suggestion put forward by our correspondent, and to the reply thereto of "Newcastle," whose letter we reproduced on the 8th inst., we may point out that while a very efficient safeguard may be provided by the auditor personally verifying the statements of account, and himself posting them to customers accompanied by a request that any discrepancy will be at once reported to him direct, this measure is somewhat too heroic for general application. If it once be admitted to customers that defalcations have been perpetrated and the books falsified, it will generally

be found that some at least take advantage of the opportunity to dispute accounts which can only be proved at the expenditure of considerable time and trouble, if at all. If, therefore, the same end can be achieved without so much disclosure of the "skeleton in the cupboard," the discretion will undoubtedly prove advantageous. Assuming that there is an adequate system of letter registration, and that effective safeguards exist rendering it impossible for the bookkeepers or cashiers to suppress letters before they have come before the principals—safeguards which can be quite easily applied in practice—it is sufficient if the statements, after being verified by the auditors, are posted to the customers, accompanied by a request that ("for stocktaking purposes") they will initial the confirmation attached to the foot thereof and return them at the earliest possible moment in the enclosed stamped and directed envelope. When the customer supplies the desired confirmation, nothing, of course, remains to be done; but, failing that, the matter would probably be best followed up by a personal visit, the precise object of which might be well concealed under a request that the statement, duly confirmed, be handed to the bearer, as the auditors were "waiting" for its production. If no other purpose be served by a personal visit of this description, it would (or at least should) do much to dispose of any bogus claims for allowances, &c., that may be subsequently put forward by the customer as an afterthought.

Speaking generally—and we can, of course, only discuss the matter in general terms in these columns—the only effective safeguards against fraud are to make as many persons as possible responsible for each separate transaction, and for the record of each separate trans-

action at the proper time, further strengthening the safeguard by occasionally, at irregular and unexpected intervals, varying the personality of those responsible for each section of the work. But, of course, no system of internal check can prove efficient unless the rule be rigorously enforced that, under no circumstances whatever, must any member of the staff perform any duties which for the time being are allocated to another.

The Audit of Local Authorities' Accounts.

OUR attention has been drawn to an article which appeared in a recent issue of the *Local Government Chronicle* contrasting the advantages of professional and official audits in connection with the accounts of local authorities, which, on account of its importance, we have thought it desirable to reproduce in another column.

It will be observed that, while this article purports to seriously discuss the relative advantages and disadvantages of the two systems before it, the object of the writer is clearly to arrive at a conclusion in favour of the latter, without, if possible, disclosing the somewhat obvious bias with which he commenced his inquiry. A certain amount of skill is evidenced in his handling of the subject, but as he has found it necessary to improve upon facts which could hardly fail to be within his knowledge, we think it fairly obvious that he is attempting to bolster up a weak argument by importing prejudice from the very outset.

In almost his opening sentence the writer says that "the powerful body of professional accountants naturally ask" that their sphere of activity should be extended, and that in some way or other they should become auditors of the accounts of local authorities. He adds that

this proposal "has gone so far" that it was supported by the Joint Committee of the two Houses of Parliament in its Report on Municipal Trading three sessions ago, and that the same scheme is being extensively advocated in connection with the coming elections of the London County Council. Our contemporary altogether over-values the influence of professional accountants if it supposes that so strong a Select Committee as that appointed in 1903 would advocate a scheme of audit against its better judgment, solely out of a desire to please accountants. The facts, of course, are that for many years prior to 1903 all municipal authorities which have given serious attention to the subject of their accounts were fully alive to the advantages of a professional audit, and had adopted it. So far as any outside persons could be said to have influenced the Select Committee, it was these local authorities, rather than professional accountants, who—our contemporary must surely be aware—took a very small part in the inquiry, considering how very intimately it concerned them. With regard to the coming elections of the London County Council, it is, of course, common knowledge that the Municipal Reform Party make proper attention to accounts and finance a somewhat prominent plank of their political platform, but that they are doing so in deference to the wishes of professional accountants is a manifestly ridiculous assertion. As a matter of fact, if they were in closer touch with a few professional accountants of ability, their position would be enormously strengthened; for, as matters stand, although doubtless their intentions are excellent, the Municipal Reformers have not very clearly demonstrated their possession of any superior knowledge or experience as compared with the Progressives. If

there were any sort of conspiracy on foot for professional accountants to capture the audit of all local authorities' accounts, our contemporary might rest assured that there would be more abundant evidence of technical knowledge on the part of both speakers and writers who voice the views of the Reform Party.

We think the object of this irrelevant and entirely inaccurate assertion is clear—namely, to drag back the controversy into the arena of party politics, instead of attempting to deal with it on its merits as a question of administration and finance.

Having entirely misrepresented the position by asserting that professional accountants as a body claim that the audit to which the accounts of local authorities should be subjected should be an audit of their own making, our contemporary proceeds to point out that, although Government auditors are not, as a class, trained accountants, they possess many qualifications which the Chartered Accountant has not; and that when the two systems are weighed in the balance, the advantage of the Government method over that advocated by the accountants is very evident. Upon this point, we may say that it is certainly not very evident from the arguments put forward by our contemporary, which, however, thinks fit to entirely ignore the standpoint that we have always taken when dealing with this subject. Our view is that, so far as the present so-called audit is an investigation with a view to detecting illegal acts, it is efficiently performed, and its continuance upon the same lines is highly desirable; but that in so far as it purports to be a true audit of accounts with a view to testing their accuracy as a true and reasonably complete statement of what has actually occurred, it is seriously deficient. It is possible to

advocate the introduction of an efficient system of audit without advocating the abandonment of a very fairly efficient system of Government supervision, but doubtless our contemporary's chief anxiety is to at all costs preserve the appointments of a class of officials who have hitherto failed to discharge duties that they never ought to have been expected to fulfil, and its anxieties in this direction apparently preclude it from viewing the matter in its proper light.

At least half of the article now under review is devoted to demonstrating that District Auditors *must* be efficient, on account of the large number of different authorities' accounts they have been auditing for a number of years past. The figures are not very clearly set forth, but we gather that, altogether, they total to something like thirty thousand different sets of accounts, audited half-yearly. Had our contemporary gone a little further into the matter, and stated how many District Auditors there are, and how many assistants they are allowed, it would have given its readers a better opportunity of judging for themselves whether it was conceivably possible that all these audits could be efficiently and promptly attended to by a mere handful of overworked and underpaid officials. Apparently, however, the *Local Government Chronicle's* trump card is the power of surcharge, in which it still seems to have unbounded faith. We are told that, whatever happens, the audit must be an audit by officials, because "it would be entirely contrary to the practice invariably followed in State affairs" if the power of surcharge were granted to any person not directly amenable to control by the executive power of the State; but it does not apparently think it necessary to mention that the Select Committee of 1903, after a some-

what exhaustive inquiry, came to the conclusion that the power of surcharge, as at present exercised by District Auditors, is for all practical purposes valueless. Our contemporary, however, has a method quite its own of drawing conclusions from admitted facts. It tells us that the effectiveness of this system may be judged from the fact that a fairly large percentage of disallowances and surcharges were appealed against and decided by the Local Government Board, and in support of this statement it cites figures showing a total of 2,087 appeals, presumably in the course of a year. It seems to us an entirely novel method of gauging the efficiency of judicial or quasi-judicial decisions to count the number of appeals against them, and if our contemporary were a little more candid, and were to give its readers the figures in connection with the appeals decided *against* the District Auditor, the absurdity of the whole position would become even more manifest. If the total expenditure incurred in connection with surcharges were weighed against the actual amount of money refunded by persons surcharged, the farce of the existing system would be patent to all.

What is required is a proper system of legal responsibility, making members of local authorities as accountable for misconduct or for negligence as are the directors of public companies. Until such a real measure of responsibility exists, it is practically useless to expect any serious improvement upon existing conditions. When it obtains, combined with an efficient system of true audit and of publication of results, those most concerned—namely, the ratepayers—may be safely left to take such proceedings as are best for the preservation of their own interests. The existing system of

surcharge costs thousands of pounds per annum to administer, and benefits no one but the lawyers who have to argue the somewhat numerous cases that come before the Courts.

On one thing our contemporary may rest assured, and that is that no efficient audit has been, or for that matter will be, conducted by officials who are not trained accountants; and for our own part we very much question the practicability of expecting even trained accountants to continue really efficient for any length of time if once they join the official class. The point of view is entirely different, and the official frame of mind is altogether inconsistent with an intelligent criticism of business transactions, however calculated it may be to create the maximum amount of irritation among accounting parties by the employment of altogether unnecessary quantities of red tape.

Certificates as to Profits.

WE always refrain from introducing names into such adverse criticism as we may be called upon to pass on matters of professional interest, provided such criticism is just as efficient, for the purpose of enunciating general principles, if delivered in general terms, as if so framed as to be capable of being construed into a direct attack upon some individual or institution. Acting upon these lines in the article which appeared in our issue of the 26th May last, we mentioned no names, for our strictures were directed to a practice for the initiation of which the Chartered Accountant concerned was in no measure responsible, namely, the practice of accountants including estimates or forecasts as to the future in any document appearing upon the face of a

company prospectus—a practice we have constantly deprecated for many years past.

In our issue of the 8th inst., however, our correspondent "Cosmos" draws attention to the article in question, and gives the name of a company, adding that he feels sure it would be of general service to the profession if we were again to devote a short article to the subject.

The difficulty of dealing fairly with a concrete illustration of any kind is that one seldom knows all that can be said upon both sides; and, in the absence of that knowledge, one is not in a position to deliver impartial judgment with regard to the matter as a whole. We would naturally have preferred, therefore, to discuss the matter, if at all, in an anonymous form.

The company mentioned by our correspondent whose prospectus formed the basis of an application under Section 35 of the Companies Act, 1862, decided by Mr. Justice JOYCE on the 28th ult., was duly recorded in in our Law Reports on the 8th inst. It may be remembered that we expressed no opinion as to the prospects of the company, as such; and indeed we were then, and still are, insufficiently acquainted with the facts to form any judgment upon the point. We confined ourselves to the general proposition—which is no mere *ipse dixit* of ours, but a deliberate enunciation of the opinion of the Council put forward by more than one President at annual meetings of the Institute—that it is improper for accountants to substitute prophecies as to the future for certification as to the past in documents intended for publication on company prospectuses. In the case of the Kent County Gas Light and Coke Company the prophecies as to the future appear to have been singularly unfortunate, inasmuch as they were founded on the estimates of an engineer who,

although advertised upon the prospectus as the managing director of the company, resigned that position before the company went to allotment. In the course of his judgment Mr. Justice JOYCE stated that the reason for this gentleman's resignation, whether it was a quarrel with the directors about his remuneration or not, did not matter; the material point was that when the directors went to allotment they at least knew that there was a serious question as to whether he was going to continue to be a director. In a like manner we may take it that for our present purposes it does not matter that Mr. DARWIN ceased his connection with the company. The essential point for our purposes is that the accountant's so-called certificate as to profits rested upon an altogether insufficient basis when it rested upon the estimates of the future managing director; but even this slender *substratum* was entirely washed away when he severed his connection.

One has, we think, only to state the matter in these terms to show how altogether inadequate is such a basis for an accountant's certificate. Granted that the prospectus of a company formed to elaborate a new scheme must be accompanied by some sort of an estimate of probable profits to make that scheme attractive to the average investor, it is undoubtedly no part of the duty of a Chartered Accountant, as such, to supply it. Such certificates are rarely read, and thus verbal qualifications and safeguards, while they may safeguard their author, do not protect the public. The public, seeing a document signed by a Chartered Accountant that is described as a certificate, not very unreasonably assumes that the description is correct, and that the figure of profit mentioned therein is one that has been certified by a Chartered Accountant. Quite

likely so-called certificates of this description may be issued with immunity so long as they be issued in all good faith, but that they can be issued with propriety the Council of the Institute has more than once officially denied, and held (as we do) very strongly the view that, if it be desired to avoid discrediting accountants' certificates *in toto*, the practice should be avoided.

Weekly Notes.

Outside Accountants. A correspondent has recently forwarded to us a copy of a stereotyped circular issued somewhat broadcast by one of the recently formed bodies of accountants, inviting applications for membership. In this particular instance, we are informed, the circular was issued to the secretary of a Lace Dressers' Association, and it would be interesting to know by what process of reasoning the association named arrived at the conclusion that the secretary of such a body was of necessity a desirable candidate for membership of an association of so-called professional accountants. It would, moreover, be extremely interesting to learn how this kind of touting for membership can be reconciled with the advantage first and foremost claimed for membership—namely, the strict scrutiny exercised by the Examination and Membership Committee, which guarantees to members a recognised status in the profession as fully qualified accountants.

Sixpence-a-Share Litigation. Our contemporary the *Financial News* draws attention in a recent issue to a revival of this form of co-operative litigation. As we have already mentioned more than once, we do not share our contemporary's objection to what may be called a *bond fide* combination of forces on the part of aggrieved shareholders who are desirous of reducing expenses by instituting one common action instead of each proceeding separately, as they would be perfectly entitled to do; but we appreciate our contemporary's point of view that in general these co-operative actions are run by persons interested in the costs of proceedings, at least as much with the object of making costs as with the idea of obtaining redress for aggrieved parties. When a limited number of genuine plaintiffs combine, they realise, of course, that they are jointly

and severally responsible for the whole of the costs of the action, and they know that they have nothing to lose, but rather something to gain, by combining. When, however, a firm of solicitors or "accountants" issues circulars to the shareholders of a particular company inviting them to contribute funds for a joint action against directors, this joint and several personal liability is rarely explained, and is apt to be lost sight of. It would, we think, be a good thing in the interests of the public if the Councils of the Law Society and the Institute of Chartered Accountants were, either jointly or separately, to issue a public statement to the effect that circulars of this description inciting members of the public to embark upon litigation without explaining to them the personal liabilities they incur by so doing are unprofessional, and will, if persisted in, be regarded as professional misconduct.

**Bound v.
Loose-Leaf
Ledgers.**

In connection with the inquiry that is now being conducted before the Stratford Justices into the charges of conspiracy against certain guardians and officials of the West Ham Union, it will doubtless be of interest to our readers to observe that one of the witnesses stated that at the time of the Local Government Board investigations he took out of the Wagon Book the leaves which contained the entries relating to a certain firm, and got a firm of printers to cut the index letters and put them on again, the manipulation being for the purposes of the inquiry. We draw particular attention to this case, because although doubtless many of our readers in the course of their experience have found that the mere fact that leaves are bound together provides no insuperable barrier to manipulation or mutilation of the contents of the book, one seldom comes across a reported case in which the risks are so clearly demonstrated. A really efficient system of Loose-leaf Ledgers involves absolutely no risks that are not common to the bound book; but, of course, in cases where no efficient system of internal check obtains, it would be idle to expect effective safeguards against such manipulations from any form of accounting.

**Domestic Servants
and Workmen's
Compensation.**

Our staid and respectable contemporary *The Law Times* points out that, if domestic servants are to be included within the scope of workmen's compensation, it would be very desirable to define in their case what are to be the earnings on which the compensation is to be based.

Our contemporary points out that wages alone can scarcely be considered the standard, for the value of food and lodging should be added thereto, and in households where visitors are frequent the tip question crops up, while in the case of men-servants the little matter of livery has to be considered. To put the whole matter very broadly, we may say it is a question of "with or without beer," and if the legal draftsmen will turn their attention to this point, we feel sure that our contemporary will be grateful.

**Audits under the
Industrial and
Provident
Societies Act.**

At the Guildhall a short time since, the maximum penalty of £50 and eight guineas costs was inflicted by Sir John POUND against one Copley, who had been summoned at the instance of the Chief Registrar of Friendly Societies, for having committed a breach of Section 65 of the Industrial and Provident Societies Act, 1893, on the 13th August last, by wilfully allowing to be made an omission from an annual return for the year 1905 with intent to falsify the same, in that he did order or allow the Balance Sheet of funds and effects to show as a liability the sum of £8 only, whereas there was at that date a further liability on a first mortgage bond under which the said Society purported to be bound in the sum of £2,500. There were two other summonses relating to alleged false entries in the same return, to the effect that the accounts had been properly audited, whereas in fact no auditors had been duly appointed in accordance with the Act. At the hearing the two persons who had signed as auditors both admitted that they did so at the request of the defendant, without making any inquiry into the accuracy of the returns they certified. One of these gentlemen is described in *The Times* report of the proceedings as a land agent, while the occupation of the other is not stated. The case is of interest, as showing that in some cases at least the magisterial bench sufficiently appreciates the importance of accurate returns to inflict the maximum penalty, and further as showing the absolutely illusory nature of the statutory safeguard of a dual audit when no qualification for the auditor is imposed. It is impossible to exaggerate the serious consequences that may occur if auditors are willing to sign statements of account without the least preliminary inquiry as to their accuracy.

**The Accounts of
Hospitals.**

The information now required from hospitals applying for grants from the King Edward's Hospital Fund has brought to light

various defects, with the result that the Prince of Wales has requested Mr. J. G. Griffiths, F.C.A., to report generally upon the whole subject. Mr. Griffiths' report has been considered by a committee of hospital secretaries, with the result that a circular has now been issued which contains, in addition to the form of Income and Expenditure Account, a model Balance Sheet and statistical tables, with a full index of classification giving the headings under which the various items of expenditure are to appear. Of course, it is obvious that no uniform system of published accounts can be of the least value for comparative purposes unless accompanied by an exhaustive system of indexing or codifying expenditure. Perhaps, however, the most satisfactory feature with regard to the whole matter is the very tangible advantage that has been effected as a result of the publication of results necessitated by the requirements of the Hospital Fund. The accounts produced have shown remarkable discrepancies between the prices paid by different hospitals for similar commodities, with the result that upon applying what we may call a clearing-house system of intelligence it has been found practicable to reduce the expenditure of hospitals participating in this Fund by no less than £20,000 in the course of the past year. A tangible economy such as this goes far to justify the expenses necessarily incurred in connection with a central non-productive administration.

The Dublin Corporation and its Official Auditor. In our issue of the 23rd June last we notified our readers that the Irish Divisional Court of King's Bench had, after due consideration, issued a peremptory order calling upon the Town Clerk of the Dublin Corporation to produce his books and accounts to Mr. J. W. Drury, the Local Government Board Auditor, at the time appointed for the purposes of audit, as provided by law. A short time since the matter came before the Irish Court of Appeal. Up to that stage the contest had been very frankly one between an Irish Nationalist local authority and a department of the brutal Saxon Government; but finding themselves worsted upon that line, in that the Irish Judiciary altogether declined to follow the lead of the Corporation in its efforts after a cheap popularity, the Corporation sprang an entirely new line of argument upon the Court of Appeal, which sufficed to carry it to victory. This was nothing short of an impeachment of the validity of Mr. Drury's appointment by the Local Government Board to audit

the accounts of this particular authority, and owing (as we can only suppose) to some colossal departmental stupidity this plea prevailed, and the appeal was accordingly allowed. Their Lordships, however, marked their sense of the merits of the case by requiring each party to pay its own costs. We cannot help thinking, however, that justice would have been better served by an order requiring the Local Government Board to pay the costs of both sides, in that a mistake of this description by a Government department can only be regarded as absolutely inexcusable.

Government Bank Inspection. We recently referred to the case of the Real Estate Trust of Philadelphia as illustrative of the fact that Government bank inspection is by no means all that its advocates say of it. The circumstances surrounding the failure of a Canadian bank point also in the same direction, for the failure of this method of inspection is shown by the fact that the books are reported to have exhibited assets of 778,000 dols., under the heading of "Other Securities," which have no existence. Outside that, a debit of 485,000 dols. is shown against a firm of New York brokers, and this item is reported to consist of margins of stocks closed years ago! The officers' guarantee fund invested in the bank's own stock was another asset, while 170,000 dols. lost in an American railway seems also to have been included. The soundness of the Canadian bank system is no doubt beyond criticism, and in the present case note-holders stand in no danger of loss whatever, as the circulation redemption fund is two or three times the amount of the actual circulation; but, as we have said, the Government examination system is worse than useless.

Winding-up Procedure. An interesting point is brought forward by the case of *Re Charles, Lim.* The facts briefly were:—A petition to wind up the company was presented, and founded solely on a judgment debt. The company obtained an order for unconditional leave to defend, and that the judgment entered therein under the order of the Master must be set aside. The petitioner asked that under the circumstances the substitution of another judgment creditor should be granted, or, if not, that the petition should be adjourned pending the hearing of the information. Mr. Justice Warrington is reported to have said that the effect of the order of the Court of Appeal was to destroy the foundation of the petition by setting aside the judgment on which it was based, and his opinion was that Rule 36 of the

Companies Winding-up Rules, 1903, did not apply. He accordingly dismissed the petition, and refused the application to substitute another petitioner.

Service Agreements.

In the course of a recent case before Mr. Justice Neville, with regard to an application to restrain a breach of a service agreement, the Judge is reported to have said that he was unable to come to the conclusion that the terms of the agreement were contrary to the law as it stood to-day, but thought that the frequent actions of this nature illustrated the great pressure which was placed on the working commercial population by the present law, and he administered this branch of the law with the greatest reluctance. He thought that the modern doctrine was that, where questions between master and man were involved, the interests of the employer alone were to be considered, and that no agreement was invalid, however oppressive and vital it might be to the possibility of the employee earning his living. Notwithstanding his opinion, he was there, however, to administer the law as he found it, and the injunction must be allowed.

Easter Offerings and Income Tax. Note should be made of a case in the King's Bench Division recently, where the Crown appealed against the decision of the Income Tax Commissioners that £56 presented to the Vicar of East Grinstead as an Easter offering by his parishioners was not liable for assessment for income-tax. The Solicitor-General pointed out that the offering was made in response to an appeal from the Bishop of Chichester, and he argued that this appeal was made for the purpose of increasing the incomes of the clergy, £9,000 having been raised in the diocese in response to a similar appeal in the previous year. On behalf of the Vicar it was contended that the money was a free-will offering. Mr. Justice Bray found for the respondent and dismissed the appeal.

The Institute of Secretaries and Liquidatorships.

In a recent note we pointed out that the principal reason why members of the Institute of Secretaries should not accept liquidatorships and similar offices was because they had not been trained for that purpose. Our remarks have evidently been taken to heart, for it is

announced that the Council has decided to provide for the delivery of a course of lectures upon the subject of the winding-up of companies, and kindred topics, during the ensuing session. The course of seven lectures will be open to all members of the Institute, and Mr. F. Shewell-Cooper is to be the lecturer. No fees will be charged, and we understand the syllabus is as follows:—

(1) Winding-up generally—Introductory observations—to what companies applicable. Voluntary winding-up—Reasons for—how brought about—effect of—appointment of liquidators—status of liquidator—his remuneration—his powers.

(2) Voluntary winding-up—The liquidator—his duties—taking possession—realisation—contributories—calls—set-off—general meetings—returns—priority of debts—surplus assets.

(3) Voluntary winding-up—The liquidator—his liabilities—removal—conclusion of winding-up—dissolution—its effect. Voluntary winding-up made compulsory. Winding-up under supervision.

(4) Compulsory winding-up—Jurisdiction—the petition—when and by whom presented—order for winding-up—provisional liquidator—statement of affairs—first meetings—the liquidator—committee of inspection—duties and powers of liquidator—dissolution—release of liquidator.

(5) Receivers and Managers—Receivers—when appointed—by debenture-holders—by the Court—their position—their duties—their liabilities—accounts Managers—their duties.

(6) Reconstruction—Various forms of—amalgamation—objects of reconstruction—methods of—under powers in memorandum—assessment—under Section 161 of the Companies Act, 1862—dissentients—arrangements.

Debenture-holders and Execution Creditors.

It is quite evident that we are by no means at the end of the decisions on the subject of the priority of debenture-holders and garnished debts, and the recent decision of Mr. Justice Walton in the case of *Cairney v. Back* is an interesting addition to the already existing authorities. Since execution creditors take subject to all equities, *prima facie*, debenture-holders are entitled to priority over such creditors, unless the process issued by the execution creditor has resulted in

the actual satisfaction of his debt; but if the garnishor has not obtained payment of the debt it appears that his diligence gives him no priority over debenture-holders, and upon their intervening the garnished debt together with the other assets belong to them. In this case the garnishee order had been made absolute before the appointment of a receiver by the debenture-holders, but the Judge held that this had no effect in excluding their priority. For a full consideration of the subject we may refer our readers to the very interesting article from *The Solicitors' Journal* reprinted in another column, where the authorities are quoted in full.

The Prevention of Corruption Act. Although the very vexed question of Christmas-boxes will not arise this year in connection with this Act, which only comes into operation on January 1st 1907, already there seems to be a small scare with regard to the point. Apparently the effect of the word "corruptly" appears to have been overlooked, and the *Law Journal* points out the absurdity of the suggestion that the gift of a Christmas-box to the postman or the tradesman's errand-boy is an offence within the meaning of the Act. There is no intention to tempt the servant to violate any duty which he owes to his employer, and if the word "corruptly" be borne in mind, together with the fact that no prosecution can be instituted under the Act without the consent of the Attorney-General or the Solicitor-General, many foolish apprehensions may be removed. It is reported that a working Committee has been formed to found the "Secret Commissions and Bribery Prevention League," and the support of all persons interested in maintaining unsullied the commerce of the United Kingdom is invited. The working Committee include many well known business men. Mr. W. C. Jackson, of Messrs. Jackson, Pixley & Co., is one of the members, and the Secretary *pro tem.* is Mr. A. E. W. Gwyn, 58 Coleman Street, London, E.C., who will be pleased to supply full particulars to inquirers.

has arranged shall be put into operation at the beginning of the new year. It is said that this will necessitate the resignation of the Professorship, which Mr. Dicksee has held at the University of Birmingham since 1902, but that he will continue to take an active interest in the work of the Faculty of Commerce.

Telephone Agreements.

An important case came before Judge Rentoul, K.C., at the City of London Court last week, when the Postmaster-General sued a Hampstead fruiterer for £5 10s. for a second year's telephone charges and calls. On behalf of the defendant it was contended that the charges for one year had been paid, the telephone was not wanted any more, and verbal notice was given to discontinue it at the end of the year. The telephone had been disconnected from the shop, and yet an action was being brought for the second year's rent. A clerk from the Solicitors' Department of the Post Office said the defendant had not given written notice, as required by the agreement, three months before the end of the first year, therefore the agreement continued, and they were claiming the second year's charge, but they had removed the telephone because the defendant had not paid the second year's rent. An officer from the Telephone Department of the Post Office service said the public were not allowed to use the telephone if they did not pay the rent in advance. It was, therefore, contended that it was the defendant's own fault for not paying the subscription. Judge Rentoul is reported to have said that, although the agreement had been very carefully and thoughtfully prepared by the official lawyers of the Government, he could not understand the claim being made, as the telephone had been cut off. It appeared to him that if the agreement was for one year no notice need be given at the end of the first nine months, in fact no notice at all need be given. The case was a very important one, which affected thousands of members of the public, and it was by the Postmaster-General's act that the defendant was deprived of the service, not by his own act. If gas or water were cut off, the companies would not dream of asking to be paid for gas or water which had never been supplied, and the telephone was the same thing. The agreement seemed to him to be unreasonable, and he was obliged to give judgment for the defendant and leave the Postmaster-General to apply for a new trial, if so advised.

Army Officers and Business Training.

The Birmingham Daily Post reports that Mr. Lawrence R. Dicksee, Professor of Accounting at the University of Birmingham, has been appointed to an important position in connection with the scheme for the business training of Army officers, which the Secretary for War

Local Taxation. Much interest is likely to be shown in the annual local taxation returns published by the Local Government Board last week. The volume deals with the year 1904-5, and contains the usual bristling array of figures: We learn that the population of the administrative County of London in the year in question was 4,536,427; the gross estimated rental value being £50,733,657, and the assessable value £42,173,114. It seems rather strange to find that the administrative county includes agricultural land of the rateable value of £18,752; buildings, &c., valued at £41,450,804; and that the annual value of non-rateable Government property was £712,934. The gross value or gross estimated rental for County Boroughs in England and Wales, including London, was £248,426,532, the figures for 1903 and 1904 being £237,103,143 and £243,061,842. The rateable value for the three years in question being £194,716,894, £199,355,590, £202,858,961. It would be, of course, impossible for us to summarise the many matters with which the returns deal, but we may safely say that the student on municipal matters will find therein many items that deserve his serious consideration.

Current Law.

COMPANY LAW.

In re The Goldfields of Matabeleland, Lim. C.A.

Held, that where a large majority of shareholders are in favour of a voluntary liquidation, a minority petitioning for a compulsory winding-up must show strong grounds before the Court will deprive the shareholders of their ordinary right of saying how they would have the affairs of the company wound up. Petition dismissed.—(*Times*, Dec. 18.)

In re Furriers' Alliance, Lim. Warrington, J.

On a petition for the winding-up of a "two-men" company on the ground of hopeless disagreement between the partners, held that, as the articles of association provide for the appointment of a third director, the alleged deadlock was really no deadlock at all. Petition accordingly dismissed.—(*Times*, Dec. 19.)

MISCELLANEOUS.

The General Council of the Bar v. The

Commissioners of Inland Revenue. Bray, J.

Held, that receipts endorsed on their briefs by barristers must bear a receipt stamp, in accordance with Section 1 of the Stamp Act, 1891.—(*Times*, Dec. 19.)

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinion expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Secret Commissions.

(To the Editor of The Accountant.)

SIR,—This subject, to which a reference is made in a letter from "Z.A.," printed in your issue of the 8th inst., is one that is of considerable importance in the auditing of accounts, and it is desirable that the duty of the auditors in relation thereto should be defined as soon as possible, although this cannot be ascertained finally until the Act has been in existence for some time, and the profession has learnt from the Judicial Bench the interpretation of the statute.

Let me deal with the position as it strikes me at present. It is clear that auditors cannot be expected to turn informers, and, should they find that commissions are paid, yet, as their employment is of a confidential nature, they would be doing a wrong act to turn informer against any person or firm who employs their services.

The position of an auditor to a company is, at first sight, somewhat more difficult, for in this case the directors are the officials whose accounts have to be audited, and the body of shareholders is the client to whom it is the auditor's duty to report.

In the case of a private firm, an auditor would report everything that occurred to him in the course of his audit to the members of that firm, but this cannot be done in the case of a public company. It is clearly not in the interests of the shareholders that the whole of the details of the working of the company should be made public. This difficulty is recognised by articles of association which state that directors may determine what information regarding the company's affairs may be given to the shareholders. Thus, the auditor of a company must not act as he would to the principal of a firm and disclose or discuss with shareholders the details of the business, but, of course, he can do so

with the directors. It follows, therefore, that he must be extremely careful in disclosing details of a company's affairs publicly to a body of shareholders.

There is a further point as to whether an auditor can, in the ordinary course of his duties, know whether or not the commission paid is "corruptly" paid or is secret, and if he made a mistake in publicly stating that a given commission was illegal, his liability for damages might be very great. The chief point, I think, that he would have to bear in mind, in deciding whether the commission was legal or illegal, would be the question whether the directors, as a body, were acting in a *bona fide* manner to the best of their ability for the financial welfare of the undertaking. Of course, it would be an entirely different question if the directors themselves were receiving commissions or acting improperly towards the shareholders in any commission transaction.

To take a case in point, bankers divide commissions with stockbrokers, and though doubtless many of their clients may know the custom, yet probably the majority of them are not aware that, though there is a commission debited to their account, part of it goes to their own bank. This may in future be deemed a "secret commission," it has been, clearly to the majority, a secret commission in the past. No doubt, the bankers render good service and are entitled to remuneration. I do not know that in terms they expressly guarantee their clients against loss by a defaulting stockbroker, but the majority of the well-known bankers would doubtless accept the responsibility.

In this instance, I should say that, at present, it would not be consistent with the duties of an auditor to set out in a certificate to bank shareholders that the bank had received this part of the stockbrokers' commission.

Briefly, then, until further light has been thrown on the meaning of the statute, it would appear to be the auditor's duty to report such commissions as apparently could be characterised "secret" to the board, but not necessarily to the shareholders, unless he was dissatisfied as to the *bona fides* of the directors.

I am, Sir, your obedient servant,

F.C.A.

Creditor's Assent to Deed of Assignment.

(To the Editor of The Accountant.)

SIR,—I shall be glad if you could inform me whether a case has been decided on the question of what is a reasonable time within which a creditor must assent to

a deed of assignment in order to obtain the benefit of any dividends that may be paid.

Yours faithfully,

December 14th 1906.

A. F. D.

Deed of Assignment.

(To the Editor of The Accountant.)

SIR,—A. is a builder who is building cottages for B. C. supplies A. with material. At one point A. gives C. a letter to B., thus:—

To Mr. B.

August 10th, 1906.

Pay Mr. C. on account of contract, and reduce same from my tender.

Yours truly,

A.

B. pays C. the amount understood, though not stated, viz., £30, which is at that time owing to A. B. omits to demand the letter, and it remains in C.'s hands. Subsequently A., after incurring more liability to C. and others in the cottage contract, makes a deed of assignment. C. refuses to come in with the other creditors, and claims that B. must pay to him all that A. owes to him (C.), and bases his claim on the above letter.

The trustee, however, claims from B. all the balance owing to A., and refuses to acknowledge the letter above as of present effect.

Does the letter operate as C. contends?

As the trustee in question, not having had a similar point raised before, I should like the opinion or experience of others.

Yours faithfully,

December 14th 1906.

NORTHERN.

Professional Etiquette.

(To the Editor of The Accountant.)

SIR,—My attention has been prominently drawn to the letter of Mr. J. R. Williams, which appeared in your issue of 1st inst., and to your Weekly Note referring to this question in the December 15th number of your journal, and I would crave your kind indulgence to briefly comment upon the same.

In the first place, what is understood by the term "professional etiquette"? My personal rendering is that it may be defined as the attitude or behaviour of one member of a profession towards another member which can evoke no cause of complaint or criticism. Adopting this—it may be egotistical—definition as a basis, I now proceed to consider its bearing in relation to shareholders and their auditors.

It may, I think, be presumed without contradiction that shareholders, when appointing an auditor, usually, or at least should, satisfy themselves on two essential points: firstly, the capability of the expert in the auditing of their accounts; and secondly, the fixing of a fee which is an adequate and equitable one for the duties performed, and one which does not err either in the direction of excess or insufficiency. If these fundamentals are admitted, an auditor should not, in my judgment, be opposed, nor should he be removed, except in cases of incapacity or variance of opinion with the board of directors upon vital methods of procedure which, influenced by the directing power, are endorsed by the shareholders as a body—or, in other words, where the views submitted by the auditor, embodying important principles, are in a distinct minority and do not command approval or confirmation. Even here a distinction must be drawn. Where proved incapacity exists—an infinitesimal percentage, I venture to affirm—sympathy would naturally be withheld; but in the latter alternative the auditor's conclusions, although unacceptable to shareholders, may be unanimously upheld by the profession as a whole, in which case another member permitting himself to be nominated would, in my opinion, be guilty of a breach of professional etiquette unless the existing auditor had first resigned and withdrawn his name for re-election. So much for primary causes.

Secondary causes may be traceable to favouritism or parsimony, or possibly both. If a company falls on evil days the appointed auditor has the option of voluntarily suggesting or consenting to a reduction of his fee, and in cases of real hardship this course would, it may be assumed, be cheerfully pursued. But when a condition of prosperity exists the auditor would rest under no obligation to accept a reduced fee, under, mayhap, a veiled threat, and he would be quite within his rights in offering himself for re-election on the remuneration he had previously received. In such circumstances another member contesting the appointment at a less fee for precisely the same work would, to my mind, infringe upon professional etiquette to an unwarrantable and inexcusable extent. Where interest gives a majority to favouritism, notwithstanding that the integrity of the existing auditor is unassailable, an acceptance of the post by another member availing himself of a compulsory resignation due to an untenable position would be both a pusillanimous and contemptible proceeding, and constitute a far more serious disregard of professional etiquette.

Now, I have always understood that our Institute of Chartered Accountants was formed for the attainment of certain well-defined objects, amongst others to uphold the dignity of the profession by maintaining the credit of its members, and to jealously protect the moral laws concerning professional etiquette. I am aware that their action is often more or less fettered by the inadequacy of safeguards afforded by the Companies Acts, and particularly by the non-imposition of penalties for breaches of the audit clauses, the amendment or recasting of which is devoutly desired by most members of the profession, especially the failure to provide for suitable notice being given to outgoing auditors. But it seems to me that unless, in the interim, the Institute more freely makes use of its existing powers to their utmost limit in severely denouncing all cases of breach of professional etiquette, and deals with them accordingly, it will be reproachfully regarded as timorous in its actions and ineffective in its decisions. That a high standard of rectitude should be rigorously enforced is incontestable.

I am, Sir, your obedient servant,

December 17th 1906.

INCOGNITO.

Income Tax

(To the Editor of The Accountant.)

SIR,—It is with interest I read matter appearing in your paper relating to income-tax. Your correspondent "C. C." raises a question of liability to income-tax as successors to a business where the assessment to tax is in excess of the profits, and payment of duty is insisted upon by the Surveyor of Taxes, who ignores the account submitted for the first year's trading of the successors.

"C. C." might with interest (but not satisfaction) read your statement in the same issue that his letter appears:—"It is a somewhat unprofitable task to laboriously consider what is the true effect of any section of the Income Tax Acts, as in practice the law is administered according to the views and interpretations of the Board of Inland Revenue." To which you might have added, "and the individual views and ideas of their Surveyors of Taxes."

When some practical step is taken by accountants and others interested, say, to instruct their Members of Parliament to support the remodelling of the present out-of-date machinery governing the income-tax, to the joy and satisfaction of thousands of their constituents, and not saddle the Surveyors of Taxes with responsi-

bility which the majority are not willing to accept, then we shall be able to have a little common sense introduced in the methods adopted in the settlement of the thousands of vexed questions, and so remove the very gross injustice done to thousands of taxpayers by the "official" methods now employed.

I venture to offer a few suggestions to this end, and shall be glad if more able men follow up the proposed solutions:—

Three Years' Average.

(a) 5 & 6 Vict. c. 35, s. 100, First Rule.—Repeal of the words, "upon a fair and just average of three years, ending on such day of the year immediately preceding the year of assessment," &c. &c., and substitute after "concern" "For the year ending," &c. &c. Thus abolishing the necessity of submitting the accounts for three years. This is advocated by such eminent income-tax officials and authorities as E. E. Nott Bower, Esq., Commissioner of Inland Revenue; Sir Francis Gore, Solicitor to the Inland Revenue; Sir Thomas Hewitt, K.C., Clerk and Counsel to the Commissioners for the City of London for over twenty-two years, and Chairman of the Clerks to the Commissioners of Great Britain; and many others, in their evidence before the Departmental Committee on Income Tax, and it is recommended by the Committee in their Report (105 & 106.)

Professional Representation on Appeals.

(b) 61 & 62 Vict. c. 10, s. 16.—Amend by omitting the words "it shall be lawful," and substitute, "And the General Commissioners are hereby required to hear any barrister, solicitor, accountant, or duly authorised agent," &c. &c.

(c) And add such parts of 16 & 17 Vict. c. 34, ss. 21 and 22, as may be necessary to enable a dissatisfied appellant to further appeal to the Recorder or County Court Judge or magistrates as he may elect.

This would, in my opinion, stay the hands of the local assessors and Surveyor of Taxes in making assessments to income-tax upon persons more entitled to parish relief, and the business of a dissatisfied appellant would only be made public at his own discretion when he could not get the satisfaction from the General Commissioners to which he considered himself entitled; and taxpayers would, I think, receive far more consideration at the hands of the Commissioners, who at present sit in final judgment, safe in the knowledge that no appeal lies from their decision.

Apart from this, I think those responsible for the charge being made in the first instance would use more discretion when making the assessments if they knew that there was a probability of an appeal being made in a public Court instead of in the usual private office of the Clerk to the Commissioners, where an appellant finds himself confronted with the Commissioners (gentlemen who usually occupy the County Bench and who elect themselves Commissioners from their own exclusive body), their Clerk (who is a lawyer), the Surveyor of Taxes (who is an expert in income-tax law and practice, and who, as you state in your Note, has the Tax Acts administered according to his views and ideas), and the local assessors; and many thousands of poor struggling business men can testify to the scant courtesy and summary procedure of this secret Court.

The publicity advocated by Mr. Arthur Chamberlain, J.P., in his evidence before the Departmental Committee on Income Tax on Wednesday, the 2nd November 1904, is what is required to remedy the income-tax machinery. A good many officials would be far more likely to shirk publicity of some of the most absurd assessments than an aggrieved (and perhaps long-suffering) taxpayer.

It was never intended by the Tax Acts that a business man should be compelled to have his books kept by a Chartered Accountant and employ a solicitor to appear for him before the Commissioners, as some Surveyors seem to think.

Hoping I have not trespassed too much upon your valuable space,

I beg to remain, yours faithfully,

Wigan, 17th December 1906.

J. DIXON.

Floating Charges and Equitable Mortgages.

(To the Editor of The Accountant.)

SIR,—Notwithstanding your remarks in last week's issue in reply to my letter of the preceding week, I am still of opinion that the decision in question is one of very serious moment to debenture-holders, as a mortgage given on the floating assets of a company which can afterwards be specifically mortgaged is really no security at all, because when the debentures crystallise, through some default on the part of the company, all the floating assets can have been previously disposed of to third parties. If this can be done, what benefit accrues to the debenture-holder by inserting in the debenture the usual words, "the company shall not be at liberty to create any mortgage or charge in priority

there has been "but one halfpenny-worth of bread to this intolerable deal of sack."

Yours informingly,

AN ENGLISHMAN ABROAD.

17th December 1906.

(To the Editor of The Accountant.)

SIR,—I observe that you apologise in your issue of this week for a mistake. I hope you will pardon me if I state that this was unnecessary, as no mistake was made, for the following reasons, viz. :—

- (1) The "value set upon the goodwill is determined by the price asked for a fixed share thereof," by stating that A. and B.'s capital is to be increased by £800, thus fixing the one-third share at £400, and not £266 13s. 4d.
- (2) That the figure of £1,200 could not "be subsequently altered at pleasure as the number of "partners is increased," as it is the actual agreed value of the goodwill, and is not a question of the number of the partners; they might be twenty, but the value of the goodwill would be no more, unless the extra capital introduced increased the volume of trade. Upon this point Dicksee, in his work on "Auditing," 6th edition, 1904, states: "The amount at which "goodwill is stated in a Balance Sheet is never "supposed to represent either its maximum or "its minimum value; no one who thought of "purchasing a business would be in the least "influenced by the amount at which the goodwill was stated in the accounts; in short, the "amount is absolutely meaningless, except as an "indication of what the goodwill may have cost "in the first instance." He also states that goodwill "is liable to fluctuations, both continual and extreme."
- (3) There was a value attaching to the business independently of its tangible assets before the purchase of the business—namely, the goodwill, which, however, was not paid for by A. and B., but which on the introduction of C. they value at £1,200 or £800 as between themselves, or, in the words of the question, "A. and B. agree to "admit C. into partnership, on the terms that "they first added to the price paid £800 for "goodwill, and that C. brought in a sum in cash "sufficient to make him an equal partner," thus

making the agreed valuation of the goodwill £1,200. Now, as their equal proportions of capital on this basis are £4,400 each, on the introduction and payment by C. of his share in cash this gives original assets £9,200, plus £4,400, making a total of £13,600, which, after crediting them with their equal proportions of capital, leaves £400, which I contend should be paid out to A. and B., or if it is to remain in the business should be shown on the Balance Sheet as a loan to it by them.

This view is upheld by Dicksee in his treatise on "Goodwill and its Treatment in Accounts," where he remarks, "This idea of 'the business' "and the goodwill of a business as distinct from its "tangible assets is fundamental in English law on "the subject."

Goodwill has two distinct meanings, so far as the owners are concerned, and the vestment of the rights accruing from such ownership—viz., rights *in rem* as distinguished from rights *in personam*—may vary, as, for example, by the conveyance of the old business premises or old firm name it has a value upon transfer which is capable of being estimated apart altogether from the individual who carries on the business, while in those cases where the business is of a purely personal nature, it can only be transferred by the recommendation of the assignor. Undoubtedly, in many cases, the transfer of the goodwill can only be effected by a combination of these, but whether the right be *in rem* or *in personam* does not affect the original partners' rights to share in any amount specifically paid by way of premium for a share in the goodwill of the business.

Therefore it must be abundantly clear that the treatment of the question both by the *Students' Telephone* and your correspondents is both legally incorrect and economically unsound, for to aver that no proportion of the amount paid by the incoming partner for goodwill must be paid or even credited to the original partners beyond the amount credited on their Capital Accounts is manifestly absurd, and would be treatment that in practice they would not submit to themselves.

As the points above-mentioned do not seem to be generally understood by the profession, from the nature of the correspondence, I again append two Balance Sheets, one on the basis of the goodwill at £800, the

other on the basis of £1,200, both before disturbing the £4,266 13s. 4d. and £4,400 brought in by C. respectively in the two cases.

I cannot now go into the matters raised by other correspondents this week, but all show a complete lack of grip of the point of the matter, showing that no careful consideration was given before replying.

Mr. Ball's remarks, as a refutation of my criticisms (as he alleges) are an abortion, for he adduces no facts or reasons in support of his arguments; apparently being one of those persons who believe that a large amount of dogmatic assertion to be more convincing than any amount of logical proof. For instance, he

states that "far from 'ignoring the very existence of the 'asset of £800,' I included among my figures in the 'correct proportion of one-third to each partner,'" whereas he only includes C.'s one-third in his £4,400 cash, and leaves out A. and B.'s £800, or remaining two-thirds, altogether.

In these sort of discussions I object to anything approaching personalities, and trust that I have been successful in adhering to my own principles in this instance.

I am, yours faithfully,

18th December 1906.

D. W. SINCLAIR.

(1)

A., B. & C.

BALANCE SHEET, drawn up on the assumption that the agreed value of the Goodwill *in toto* be only £800, and without the amount introduced by C. in respect of it being withdrawn. Cr.

	£	s	d	£	s	d		£	s	d	£	s	d
Creditors	..	..	..	2,650	0	0	Goodwill	..	..	..	800	0	0
Partners' Capital Accounts:—							Sundry Assets	10,934	0	0			
A.	4,000	0	0				Less Reserve on Book Debts	284	0	0			
Add 1/3rd share of Goodwill	266	13	4	4,266	13	4	Cash at Bank	£4,266	13	4	10,650	0	0
B.	4,000	0	0								4,266	13	4
Add 1/3rd share of Goodwill	266	13	4	4,266	13	4							
C. (Cash as per contra)	..	..	..	4,266	13	4							
Loan Account:—													
A.	133	6	8										
B.	133	6	8	266	13	4							
Being amounts not withdrawn by them in respect of the premium paid by C. on account of Goodwill on entering the business.				£15,716	13	4					£15,716	13	4

(2)

A., B. & C.

BALANCE SHEET, drawn up on the agreed basis of £1,200 as the value of the Goodwill, and without the amount introduced by C. in respect of it being withdrawn. Cr.

	£	s	d	£	s	d		£	s	d	£	s	d
Creditors	..	..	..	2,650	0	0	Goodwill	..	..	..	1,200	0	0
Partners' Capital Accounts:—							Sundry Assets	10,934	0	0			
A.	4,000	0	0				Less Reserve on Book Debts	284	0	0			
Add 1/3rd share of Goodwill	400	0	0	4,400	0	0	Cash at Bank	..	..	..	10,650	0	0
B.	4,000	0	0								4,400	0	0
Add 1/3rd share of Goodwill	400	0	0	4,400	0	0							
C. (Cash as per contra)	..	..	..	4,400	0	0							
Loan Account:—													
A.	200	0	0										
B.	200	0	0	400	0	0							
Being amounts not withdrawn by them in respect of the premium paid by C. on account of Goodwill on entering the business.				£16,250	0	0					£16,250	0	0

The Chartered Accountants' Benevolent Association.

THE Honorary Secretary informs us of the following donation:—

Peat, W. B.—Edith Peat Gift (£2,000).

Chartered Accountants' Golf Club.

THE Annual Tournament will commence at the beginning of next year; the first prize being kindly presented by the President of the Institute of Chartered Accountants (W. B. Peat, Esq.), and the second prize by the Club. The winner will also have his name engraved on the shield, which is hanging in the Members' Room of the Institute. Members wishing to play must notify the Hon Sec., Mr. Daniel Hill, Junr., Beverley, The Avenue, St. Margarets-on-Thames, on or before Saturday the 22nd December 1906.

There will be an Optional Sweepstake of 2s. 6d., which must be sent in, together with the entry.

The heats may be played on any Links, except the Semi-Final and Final matches, which will be played early in May near London.

Personal.

MESSRS. W. H. PAYNE & Co., Incorporated Accountants, of 48 Gresham Street, London, E.C., announce that they are removing their offices to Martin's Chambers, 28 Martin's Lane, Cannon Street, E.C. Their new telephone number will be "9388, London Wall."

MR. ARTHUR J. PARKINSON, of Messrs. WELCH & PARKINSON, Chartered Accountants, of Commerce Court, 11 Lord Street, Liverpool, announces, with deep regret, the death on the 6th inst. of his father, Mr. WILLIAM RUSCOE PARKINSON, one of the founders of this firm. He intimates that he has now taken into partnership Mr. ALBERT H. HENSHAW, A.C.A., and Mr. ERNEST COBB, A.C.A., both of whom have been actively associated with the business for many years. The firm will be continued under the same style and title as heretofore.

The late Mr. ADAM MURRAY, of Manchester, who died on the 21st September last, has left estate of the gross value of £48,471, of which the net personalty has been sworn at £46,224. The deceased has made numerous valuable charitable bequests.

Manchester Chartered Accountants Students' Society.

Railway Wagons under Hire-Purchase Agreements.

By Mr. F. HALSALL, A.C.A.

PRESIDENTIAL ADDRESS delivered on November 5 1906 before the members of the above Society.

The subject of my address this evening comes into the practice of the public accountant under various conditions. It may be in his position as auditor, on the one hand, of a wagon building concern or of a wagon finance company, or, on the other, of a business (a colliery, for instance), the nature of which necessitates the employment of wagons. He may even have a more intimate acquaintance with the subject should he occupy at any time a position as receiver and manager on behalf of debenture-holders, or as liquidator of a company, or trustee in bankruptcy, where wagons are included in the assets taken over by him.

As we can have no wagons without a builder, I will in the first instance refer to the accounts of a wagon building concern; but I do not mean to elaborate the various books of account, or set forth detailed accounts of purchases and expenses which appear in the books of a wagon builder, but to consider the dealings with the wagons when built and delivered, and the entries consequent thereon.

The wagons may be either sold out-and-out at an agreed price per wagon, or they may be disposed of under hire-purchase agreements, under which equal quarterly or half-yearly payments of rent are made for a term, at the end of which, the conditions of the lease having been complied with, the wagons may become the property of the hirer. In the former case the transaction presents no special features, and the ordinary entries recording a sale would be made in the books, the purchaser being debited at the agreed price and a nominal account credited with a like amount. It is, however, the transactions under hire-purchase agreements to which I wish to direct attention this evening, but before considering the entries to be made in connection therewith it would be well to set out briefly the provisions usually embodied in the agreements:—

- (1) The owner agrees to let on hire, and the hirer or tenant agrees to take on hire, a number of wagons from a certain date for a specified term of years, varying from three to seven or ten, such wagons being numbered with the tenant's numbers, but also bearing the owner's plates with the owner's numbers thereon; but if any of the wagons are delivered to the tenant either before or after the date mentioned in the agreement, an average date of delivery is to be taken as the commencement of the term.

- (2) The total yearly rental is stated with the rate per wagon, as also the dates fixed for payment, which may be either quarterly or half-yearly, but generally quarterly.
- (3) Interest, usually at 10 per cent. per annum, is to be paid on rent unpaid fourteen days after the due date.
- (4) The carrying of certain injurious articles is prohibited under penalties.
- (5) The tenant is to repair, maintain, and paint the wagons, and the owner has the right of inspection from time to time, to see that this covenant is carried out.
- (6) The tenant is not to assign the lease without the consent of the owner, but such consent is not to be unreasonably withheld.
- (7) In default of payment within twenty-eight days after the due date of any part of the rent due, the same having been demanded in writing by the owner, or if the tenant becomes bankrupt or compounds with his creditors; or being a company or corporation goes into liquidation, voluntary or compulsory; or if a receiver be appointed, or if the wagons are assigned without the consent of the owner; or if there is default in the repairing covenants; or if the tenant allows the wagons to pass out of his possession without the consent of the owner, or shall suffer the owner's plates to be defaced or removed, then the owner has the right to take possession of the wagons, and put an end to the agreement without prejudice to any claim he may have for damages for breach of the agreement.
- (8) The agreement is not to be construed to be a purchase or an agreement for the purchase by the tenant of the wagons included therein, but on due completion of the agreement and payment of all rent, interest, or other moneys payable thereunder, he has the option of purchasing all or any of the wagons, usually at the price of one shilling each.
- (9) In some agreements there is a provision for redemption, under which, after the payment of the first year's rent, the tenant has the option of redeeming the wagons at the end of any year on giving stated notice, and by payment of the balance then owing in accordance with the schedule to the agreement together with the nominal purchase-money.

Although it is the idea of the hirer when entering into a hire-purchase agreement that he is, in effect, purchasing the wagons by deferred payments, it is important to observe that the legal ownership of the wagons does not pass to him until he either exercises his right of redemption (if any) prior to the end of the term, or until the last instalment is discharged, and in either case the payment of the nominal amount provided for in the agreement.

It might be urged, therefore, that until the hirer becomes the legal owner the transaction should not be treated as a sale; but it seems to me that so far as the question of taking the profit is concerned, it may be considered a sale, the builder in effect lending the purchase-money and retaining the legal ownership of the wagons as security for the payment thereof with interest. As a further argument against treating the transaction as a sale, it might also be stated that the hirer is not bound to complete the agreement, and may return the wagons after payment of a few instalments. Having regard, however, to the fact that the hirer's payments represent a much larger amount than if he were paying simple hire, the probabilities are that he will endeavour to complete the agreement; but should he not do so (apart from any question of falling values in wagons generally), the builder would probably not suffer any loss on a subsequent sale of the wagons, as the capital portion of the instalments paid by the hirer would be in excess of any depreciation. This may not be the case, however, where wagons are returned within the first year, but experience shows this is a very unusual occurrence. In this connection I saw a statement only the other week in the prospectus of a wagon finance company that during a period of fourteen years not one penny had been lost by a bad debt.

In fixing the amount of the instalments to be paid, the builder will have regard to the cash value of the wagons for an out-and-out sale, as to how the instalments are to be payable, whether quarterly or half-yearly, and to the term of the proposed lease, and the rate of interest he expects on the unpaid principal, which is usually 6 per cent. The hirer would also naturally have regard to the same considerations.

For example, a builder is negotiating the hire-purchase of 100 wagons, which he would sell out-and-out for £60 each, or £6,000 in all. The intending hirer is agreeable to, say, a three years' lease, and to paying the instalments half-yearly, interest being charged at 6 per cent. (I have taken a short period and half-yearly instalments for the sake of brevity.)

The builders have tables showing the instalment payable quarterly or half-yearly, which would give them at the end of the term agreed repayment of the principal with interest at given rates, the tables also showing how much of each instalment is on account of principal and how much is interest. From his tables he would ascertain that the half-yearly instalment required to pay off the £6,000, with interest on the half-yearly balances outstanding at 6 per cent. per annum, would be £1,107 11s. 8d., and consequently £2,215 3s. 4d., the yearly rental, would be set out in an agreement between the builder as owner and the hirer or tenant.

As a matter of interest to the accountant student, the instalment can be ascertained by means of Inwood's Tables, which show the present values of £1 per annum for a number of years. From these he would ascertain that the present value of £1 per half-year for three years, interest at 6 per cent. per annum, would be £5.79548, and from this, by a proportion sum, that the amount of £6,000, which is our present value, would require an instalment of £1,107 11s. 8d. per half-year.

It is usual to enter the particulars of each lease in a Contract Book, or Wagon Lease Book, as in the annexed form "A," to which I will refer, and the particulars for the entries in the books of account are from time to time taken from this book.

It is evident that it would not be correct to enter the aggregate of the instalments to be paid under the agreement, which amounts to £6,645 10s. od., as the selling price, with a view to taking credit for that amount at the date the wagons were delivered, as if this were done the Revenue Account as at that date would receive credit for interest which had not accrued and would not accrue for a number of years.

The amount to be entered as the selling price is the cash value of the wagons on which the agreement is based, in this instance £6,000.

Further, having regard to the fact that the hirer is not the actual owner until the determination of the agreement, I would submit that it is more correct (if not actually advisable) to debit an account called "Wagon Stock Account" with the selling value, and not the hirer's personal account. I believe the latter method is advocated at times, but it would not be correct to show the hirer as a debtor for the selling value. He is not so, and is only a debtor at any given time for the unpaid instalments accrued due or for arrears thereof. In all the Balance Sheets I have seen of wagon finance companies the principal unredeemed in respect of wagons let under these agreements is shown as "Wagon Stock," the hirer in no case appearing as a debtor for it.

Taking the transaction before us, the entries I would suggest in the first instance would be to debit a "Wagon Stock Account," and credit Wagon Sales Account or Wagon Building Account with £6,000, and the difference between this amount and the wages, purchases, and expenses debited to the Wagon Building Account will be the building profit.

As the majority of hire-purchase agreements are with wagon finance companies, I will now leave the consideration of the builder's books for a moment.

When a user of wagons is desirous of purchasing under the hire-purchase system he will probably approach a builder as to the class of wagon he requires, and the cash price therefor. He or the builder will then see on what

terms a wagon finance company will let them under a hire-purchase agreement. If the terms are satisfactory the hirer enters into the agreement and the finance company buys the wagons out-and-out from the builder. Assuming, therefore, that our transaction has been financed by one of these companies, the first entries in their books will be a credit to the builder and a debit to "Wagon Stock Account" for £6,000, and the former account would be closed by the posting of the cash when paid to the builder.

Be a hire-purchase agreement therefore with either the builder or the finance company, the wagons in our example would be standing in Wagon Stock Account at £6,000, and the subsequent entries in the books of either builder or finance company would be the same. An account would be opened with the tenant and this would be debited each half-year with the instalment due, a portion of each being credited to the Wagon Stock Account and the balance thereof (the interest) to Revenue Account as rent.

I have prepared *pro forma* Accounts "B," to which I will now refer. From these you will observe that at 28th February 1906 the Wagon Stock Account is closed by a credit thereto of a proportion of the final instalment representing capital.

You will also note the Revenue Account has received credit during the terms for £645 10s. od., being the proportion of the instalments representing interest, which corresponds with the amount in our Wagon Lease Book. On receipt of the nominal purchase money, 1s. per wagon, the original owner's name-plates are removed, and the wagons become the property of the hirer.

I would now direct attention to the Balance Sheet. The open balances from time to time would appear therein under the following heads. On the assets' side:—

Wagon Stock Account £

(Being the amount of principal unredeemed by tenants at the date of the Balance Sheet.)

Sundry Tenants for Rent of Wagons due and

arrears £

In the accounts of some wagon finance companies the portion of the instalments representing capital repaid is credited to "Wagon Depreciation Account," so that during the term of an agreement the wagons therein referred to stand in the Wagon Stock Account at the original cash value, whilst the Depreciation Account shows the amount of capital redeemed by the instalments, the difference between the two accounts from time to time being the actual capital unredeemed. When the agreement runs out by completion of the payments the "Wagon Stock Account" is then credited with the amount of the original value charged thereto and the Depreciation Account debited, thus cancelling a like amount already provided the credit of that account.

In the Balance Sheet the balances of these accounts from time to time would appear under the following heads. On the assets' side:—

Wagon Stock Account	..	..	£
Less Depreciation Fund	..	..	£

			£

In both Balance Sheets the net amount shown as wagon stock would be the same.

Some wagon finance companies credit their Revenue Account with the full amount of each of the instalments received from the hirer as rent. Against this, however, they debit that account with the capital portion of the instalment and credit the same to an account called "Redemption of Stock." In the Balance Sheets the amounts at the credit of the latter account are shown as a deduction from the amount of Wagon Stock Account, in the same manner as the Depreciation Fund already referred to.

In the ordinary course of a business "Wagon Stock Account" would comprise all the leases current, and the balance of that account should always correspond with the total of the balances shown in the "Capital Outstanding Column" in respect of the various leases in the Wagon Lease Book.

Before passing on to the consideration of the accounts of the hirer I would point out that the questions of repairs and maintenance, as also depreciation, do not arise in the owner's accounts, as these charges are borne by the hirer.

We will now consider our example in regard to the entries to be made in the books of the hirer, and my experience is that if you were acting as his accountant, and it was his first transaction of this nature, you would probably be consulted as to the entries to be made, or they would be left for you to raise yourself.

As a rule the only information before you is that contained in his agreement, which gives the term of years and the amount of the quarterly or half-yearly instalment payable. This, of course, is not sufficient to enable you to allocate the proportions of each instalment to Capital and Revenue; but if the hirer does not know the estimated cash value of the wagons, he generally knows the rate of interest on which the instalments are based, but, if not, it can be obtained from the owner of the wagons. Given this, you can get at the cash value—which is really the present value of the instalments—by referring to "Inwood's Tables." These, as before mentioned, give the present values of £1 per annum from 1 up to 100 years at varying rates of interest.

Assuming you have ascertained the rate of interest, which in our example is 6 per cent., you would know that the instalments covered a period of three years at £1,107 11s. 8d. per half-year, and would find from the tables that the present value of £1 per half-year for that term is £5,417 19s. It would therefore follow that the present value of the half-yearly instalment of £1,107 11s. 8d. is this amount multi-

plied by £5,417 19s, which gives £6,000. If both the cash value and the rate of interest are obtained from the builder or wagon company there will, of course, be no necessity to refer to Inwood. Having obtained the cash value, you would probably, for your own satisfaction, prepare a statement on the lines of Form C. This would give you the proportions of the principal and interest of each instalment which correspond with the amounts already given with the Form A. At the same time it would satisfy you that the entries you proposed to make in the books were correct, and that on the expiration of the lease the instalments payable would work off the original cash value with interest at 6 per cent. In practice there are several methods of dealing with the entries in the books of account:—

(1) The method I prefer is to have one account only with the builder or finance company, crediting thereto the amount of each instalment as it becomes due, and debiting the proper portions thereof to a "Wagon Capital Account," and to Interest Account, as in Form "D." The Personal Account would be closed from time to time as the cash paid for each instalment was posted. The Wagon Capital Account would be opened by a debit thereto of the proportion of capital included in the first instalment, and would be added to each half-year by the capital proportion of each succeeding instalment, until at the end of the three years it would total to the cash value of £6,000. By this method, the only liability shown in the Balance Sheets would be that for instalments actually due but not paid off at the dates of the Balance Sheets. On the other hand, until the final instalment was paid, the asset would be shown therein as follows:—

Wagons under Hire Purchase Agreement:—

Proportion of instalments to this date .. £
but after payment of the final instalment and nominal purchase-money, when the hirer becomes the legal owner, the assets could be shown as:—

Wagons at cost £

It should be clearly shown in the Balance Sheets when the wagons are held under hire-purchase agreements, that is, they should not be shown as free assets.

(2) Another method is to debit a Wagon Capital Account, and credit the builder or finance company in a Principal Account with the cash value of £6,000, as at the date of the commencement of the lease, and at the due date of the first instalment to open a Rent Account with the builder or finance company by crediting thereto the amount of the first instalment. Of this, the proportion representing capital would be debited against the builder's Principal Account in reduction of the £6,000, and the proportion representing interest against Interest Account, the further instalments being credited to the builder's Rent Account as they become due, and the proportions of principal and interest being debited to the builder's Principal Account and to Interest

Account respectively. The builder's Principal Account at the end of the term will be closed by the debit thereto of the principal in the last instalment, and his Rent Account closed from time to time by the cash paid against each instalment. Sometimes only one account is opened with the builder or wagon company for both principal and interest, the principal being credited at the commencement of the lease and the interest credited at the due dates of the instalments, the cash payments in respect of each instalment being debited thereto. This method would show the same details as in the Lease Statement "C" I have referred to just now, so I need not go over the figures. The Wagon Capital Account (unless reduced by depreciation) would stand throughout the term at £6,000.

At the dates of the Balance Sheets of the hirer the open balances under this method would be shown therein under the following heads:—

On the Assets' side:—

Wagon Capital Account.

Wagons under hire-purchase agree-	
ments at cash value	£6,000 0 0

And on the Liabilities' side:—

Estimated liability in respect of	
wagons under hire-purchase agree-	
ments, <i>per contra</i>	£

(This would be the amount at the credit of the builder's Principal Account at the date of the Balance Sheet.)

Or, in the alternative:

Under the head of Assets:—

Wagon Capital Account.

Wagons under hire-purchase agree-	
ments at cash value	£6,000 0 0

Less Estimated liability in respect	
thereof	

£

carrying out the net amount only as an asset.

Of these two ways of stating the assets I prefer the latter, that is, showing Wagon Capital Account as the net amount after deducting the estimated liability.

My remarks have had reference to a transaction where the object of the hirer has been to purchase wagons but to pay for them over a period of years. There is another class of transaction, however, which is carried through under the hire-purchase agreements. An absolute owner of wagons may find himself short of capital for the purposes of his business, and may approach a wagon finance company with a view to obtaining a loan thereon, repayable with interest by equal instalments over a period of years. When the amount of the loan is agreed, the wagons are sold to the company for this amount, and the company thereupon leases

them to the borrower under a hire-purchase agreement. By this the borrower gets further capital, and the wagon company have the legal ownership of the wagons as security for the due repayment to them of the advance, with interest.

I will now refer briefly to the question of Repairs and Depreciation.

As regards repairs, the hirer covenants to keep the wagons in repair, and the owner possesses strong powers to see that this covenant is carried out. The usual practice, I think, will be found to be to let each year's revenue bear the actual outlay on repairs during the year.

An alternative plan would be to charge an estimated amount per wagon per annum against the Revenue Account, and to place the total thereof to the credit of a Reserve Account, the actual repairs as they occur being charged to the latter account, the object of this method, of course, being to equalise the charge for repairs each year.

In the case of some large proprietors, principally the railway companies, where renewals must be going on each year, it is not the practice to provide for depreciation of the wagons, but to charge all renewals to revenue.

With these companies the charges to revenue for maintenance will probably average, but in the case of the owners of small numbers of wagons this would not be so; and, in those years where the Revenue Account would be charged with the cost of renewed wagons, the total charge for those years would probably be much above the average. In these concerns, therefore, the more desirable plan would be either to set aside an equal annual sum for repairs and renewals, or to provide for actual repairs and depreciation each year and charge the renewals to capital. In the case of wagons held under these agreements the question naturally arises as to whether depreciation should be provided for before the hirer is the actual owner; and in answer to this I would say, undoubtedly it should. Although not the legal owner, the hirer intends to become so, and, as we have seen, is making payments from time to time on account of the purchase-price. The actual wear and tear of the wagons commences from the day they were put into working, and if he does not provide the depreciation from that time, it will be a much heavier charge per annum if left until he becomes the legal owner, as he will have the same amount to provide for—i.e., the cost of the wagon—but a shorter time in which to provide it.

In practice, the provision for depreciation is based either on a percentage of the cost (after the first year on the reduced amounts) or at a fixed amount per wagon, £2 or £3, but these percentages and amounts vary according to the class and estimated life of the wagons. If the Wagon Capital Account is being built up half-yearly, as in Statement D, and the depreciation being provided by way of percentage, it will be evident it should be based from the

first year on the full cash value, as distinct from the amount at the debit of Wagon Capital Account.

In some concerns an annual valuation of the wagons is prepared, and this is adopted for the purposes of the accounts, any decrease in value being written off as depreciation.

Before closing, I will just refer to the hirer's position in reference to assessments to income-tax, Schedule D.

Speaking generally, the charges to Revenue Account in

respect of the proportions of the instalments representing interest are not allowed as deductions from the profits, although in equity I think they should be. As regards depreciation, I am afraid there is no uniformity, but the general practice is to allow actual renewals and repairs only as distinct from depreciation and repairs.

In conclusion, I thank you for your attendance, and if there is any point I have not made clear, I shall be glad to answer any inquiries.

A.—

CONTRACT OR WAGON LEASE BOOK.

Lease No. 1.

100, 10 ton Coal Wagons at £60 each, £6,000.

Rate, 6 per cent.

Term, 3 years, half yearly instalments, first instalment payable 31st August 1903.

Owner's Plate, Nos. 1 to 100.

No. of Half-year and date	Capital Outstanding	Rent	Allocation	
			Capital	Revenue
1903	£ s d	£ s d	£ s d	£ s d
Feb. 28 ..	6,000 0 0			
1 Aug. 31 ..	5,072 8 4	1,107 11 8	927 11 8	180 0 0
1904				
2 Feb. 28 ..	4,117 0 0	1,107 11 8	955 8 4	152 3 4
3 Aug. 31 ..	3,132 18 6	1,107 11 8	984 1 6	123 10 2
1905				
4 Feb. 28 ..	2,119 6 6	1,107 11 8	1,013 12 0	93 19 8
5 Aug. 31 ..	1,075 6 5	1,107 11 8	1,044 0 1	63 11 7
1906				
6 Feb. 28 ..	..	1,107 11 8	1,075 6 5	32 5 3
		£6,645 10 0	£6,000 0 0	£645 10 0

B.—

Dr.

WAGON STOCK ACCOUNT.

Cr.

1903 Aug. 31	To Journal, 100 Wagons £60 each	£ s d	1903 Aug. 31	By Journal portion of instalment	£ s d
Feb. 28		6,000 0 0	1904 Feb. 28		927 11 8
			1904 Aug. 31		955 8 4
			1905 Feb. 28		984 1 6
			1905 Aug. 31		1,013 12 0
			1906 Feb. 28		1,044 0 1
			1906 Aug. 31		1,075 6 5
		£6,000 0 0			£6,000 0 0

Dr.

TENANT A. B., LEASE NO. 1.

Cr.

1903 Aug. 31	To Journal, 1st instalment	£ s d	1903 Aug. 31	By Cash	£ s d
1904 Feb. 28	" " 2nd	1,107 11 8	1904 Feb. 28	" "	1,107 11 8
1904 Aug. 31	" " 3rd	1,107 11 8	1904 Aug. 31	" "	1,107 11 8
1905 Feb. 28	" " 4th	1,107 11 8	1905 Feb. 28	" "	1,107 11 8
1905 Aug. 31	" " 5th	1,107 11 8	1905 Aug. 31	" "	1,107 11 8
1906 Feb. 28	" " 6th	1,107 11 8	1906 Feb. 28	" "	1,107 11 8
		£6,645 10 0			£6,645 10 0

Dr.

BUILDER OR WAGON FINANCE CO.

Cr.

1903						£	s	d	1903						£	s	d
Aug. 31	To Cash					1,107	11	8	Aug. 31	By Journal, 1st instalment					1,107	11	8
1904									1904								
Feb. 28	" "					1,107	11	8	Feb. 28	" " 2nd "					1,107	11	8
Aug. 31	" "					1,107	11	8	Aug. 31	" " 3rd "					1,107	11	8
1905									1905								
Feb. 28	" "					1,107	11	8	Feb. 28	" " 4th "					1,107	11	8
Aug. 31	" "					1,107	11	8	Aug. 31	" " 5th "					1,107	11	8
1906									1906								
Feb. 28	" "					1,107	11	8	Feb. 28	" " 6th "					1,107	11	8
						£6,645	10	0							£6,645	10	0

Dr.

INTEREST ACCOUNT (REVENUE).

Cr.

1903						£	s	d				£	s	d
Aug. 31	To Journal portion of instalment					180	0	0						
1904														
Feb. 28	" "					152	3	4						
Aug. 31	" "					123	10	2						
1905														
Feb. 28	" "					93	19	8						
Aug. 31	" "					63	11	7						
1906														
Feb. 28	" "					32	5	3						
						£645	10	0						

The Audit of Accounts.

(From *The Local Government Chronicle*).

For a considerable time past the relative advantages of Government audit as compared with other proposed systems have been freely discussed, and two distinct schemes have been advocated by those who wish some changes to be brought about. On the one hand, the powerful body of professional accountants to whose care all the accounts of the great trading concerns of the kingdom are entrusted, naturally ask that their own sphere of activity should be extended, and that they shall in some way or other become auditors of the accounts of local authorities. They point out that Government officials have neither the training nor the experience necessary to enable them to deal effectively with the accounts of large trading concerns carried on by local authorities, and they claim that the audit to which such accounts should be subjected should be an audit of their making, and on the same lines which they follow in dealing with ordinary commercial concerns. So far has this proposal gone that it was supported by the Joint Committee of the two Houses of Parliament in its report on municipal trading three Sessions ago, and the same

scheme is now being extensively advocated in connection with the coming elections to the London County Council. The advocates of this scheme, however, entirely ignore the practice which is invariably followed in State affairs—a practice which prohibits the granting of powers such as those of surcharge and disallowance to any person who is not directly amenable to control by the Executive power of the State. It may be true that Government auditors are not as a class trained accountants, nor, indeed, are the officials of the Exchequer and Audit Department, in whose hands rests the auditing of the enormous sums expended by the great State spending departments. Auditors of local authorities' accounts generally possess many qualifications which the Chartered Accountant has not, and when the two systems are weighed in the balance, the advantages of the Government method over that advocated by the accountants is very evident. As against the scheme of having Chartered Accountants called in to audit the accounts of local authorities, the alternative is to strengthen the present audit staff of the Government, and to fit it in every way for the task of auditing the heavy accounts which modern local authorities must necessarily keep. We do not say that the Local Government Board audit staff, as at present recruited, is an ideally perfect machine for the effective audit of the enormous expenditure of local authori-

ties, but it has done, and is still doing, most excellent work, and never during the whole of the sixty years during which the system has been in operation has the staff been more efficient than it is to-day. The recently published annual report of the Local Government Board gives details of the work done by the audit staff, from which it appears that accounts of 815 Urban District Councils and their officers were audited by the District Auditors, as were also those of 669 Rural District Councils, 47 Port Sanitary Authorities, 110 Joint Boards for Sanitary Purposes, 60 Isolation Hospital Committees appointed under the Isolation Hospitals Acts, 1893 and 1901, 241 Joint Committees appointed wholly or in part by District Councils, and certain other miscellaneous authorities. At present Municipal Borough Accounts are not subject to this audit, except so far as there are transactions under the Education Acts; but in a few cases special Acts have been passed bringing certain boroughs under this audit, and in this way the boroughs of Tunbridge Wells, Bournemouth, Southend, and Devonport are brought under the same system as Urban District Councils. Of the smaller authorities, the District Auditors audited during the past year the accounts of 6,650 Parish Councils, 400 parish meetings for parishes not having Parish Councils, and 113 Joint Committees of those authorities, the audit in each case including the accounts of the officers of the local authority. Five hundred Parish Councils and 5,300 parish meetings had no accounts during the year ended 31st March 1905. By far the most numerous of all local bodies are the overseers of the poor, which are, by the way, also the most ancient of all existing local authorities. The District Auditors have audited the half-yearly accounts of the receipts and payments of the overseers of the poor of about 15,000 parishes in respect of the poor rates collected by them, and the books of the rate collectors and assistant overseers. In addition, they have also audited the accounts of certain corporation rates levied and collected by overseers of the poor under the provisions of local Acts, and the accounts in respect of lighting, special expenses, and separate burial rates collected by overseers. With such experience as this it cannot be said that the audit staff, if properly organised and controlled, cannot adapt itself to the audit of any accounts which might be brought under its control. The effectiveness of this system of audit may be judged from the fact that a fairly large percentage of disallowances and surcharges were appealed against and decided by the Local Government Board. In the case of the Metropolitan Borough Councils there were 50 such appeals; in the case of Town Councils there were 95, nearly all of which related to education expenditure; in the case of Urban District Councils there were 470, and of Rural District Councils 350; whilst Parish Councils, though fairly numerous, were only 158. Overseers of the poor made 964 appeals. Thus it will be seen that the strict supervision which this audit brings to bear on the accounts

of local authorities resulted in a moderately large percentage of items being questioned and considered on their merits by the great Central Department which has supreme jurisdiction over all these matters.

The Priorities of Debentures and Garnished Debts.

(From *The Solicitors' Journal*.)

THE decision of Walton, J., in the recent case of *Cairney v. Back* (1906, 2 K.B. 746) is an interesting addition to the authorities on the respective priorities of debenture-holders and execution creditors. *Prima facie* debenture-holders come in front of execution creditors in consequence of the rule that such creditors take subject to all equities (*Re Standard Manufacturing Co.*, 39 W.R. 389; 1891, 1 Ch., at p. 641), and this priority seems to prevail over any process issued by the execution creditor unless, possibly, it has resulted in the actual receipt by the creditor of assets of the company in satisfaction of his debt. This was the case in *Robson v. Smith* (43 W.R. 632; 1895, 2 Ch. 118), where a garnishee order had been made absolute, and the garnished debt had been paid to the garnishor before any receiver had been appointed on behalf of the debenture-holder, though the debtor had notice of the debenture. The debenture-holder sued the debtor to recover payment of the amount on the ground that it had been improperly paid to the garnishor, but Römer, J., rejected the claim. This was upon the ground that, until the debenture-holder intervened, the company was to be treated as continuing to carry on its business, and the receipt of the garnished debt by the garnishor was a receipt of assets of the company while the debentures still remained only a floating security.

But if the garnishor has not actually obtained payment of the garnished debt, it seems that his diligence gives him no priority over the debenture-holders, and, upon their intervening, all the assets, including the garnished debt, belong to them. This rule was laid down with regard to execution creditors generally in *Davey & Co. v. Williamson & Sons* (46 W.R. 571; 1898, 2 Q.B. 194). "The rights of the execution creditor," said Lord Russell, C.J., "are subject, not only to the legal, but also to the equitable, rights of the debenture-holders. The sheriff

"cannot merely by seizing affect the rights of third persons to which property was subject when in the hands of the debtor, unless, indeed, such third persons have debarred themselves from the assertion of such rights." And the rule was in that case held to apply so as to prevent the execution creditor from obtaining priority, notwithstanding that the debenture-holders had not actually intervened. The seizure of the company's effects by the sheriff was not a dealing with them in the ordinary course of business, and it did not remove the goods from the scope of the charge created by the debentures. And upon the same principle it may be that even after a sale by the sheriff, and the payment of the proceeds to the execution creditor, he would remain liable to refund the amount to the debenture-holders, notwithstanding *Robson v. Smith* (*supra*); although if there has been no actual realisation of the goods, but a payment by the company to the sheriff for the purpose of avoiding realisation, the judgment creditor would be under no such liability: *Robinson v. Burnell's Vienna Bakery Co., Lim.* (52 W.R. 526; 1904, 2 K.B. 624).

In regard to garnished debts the question has been raised whether the garnishee order has the effect of transferring the garnished debt to the garnishor so as to remove it from the assets of the company. Even if this were so it does not follow that it would also be withdrawn from the scope of the debenture charge, for, as with any other execution, it would not be a dealing with the assets in the ordinary course of business. But in fact the garnishing of the debt does not operate as a transfer of it. If so, the garnishor would become a creditor of the garnishee, and it was held in *Re Combined Weighing and Advertising Machine Co.* (38 W.R. 67, 43 Ch.D. 99) that this was not the case. "What," said Cotton, L.J., there, "does a garnishee order do? It is not an assignment of the debt due by the garnishee to the debtor; it merely gives the garnishor a lien upon that debt." And consequently the lien in favour of the garnishor is subject to any prior equitable charges to which the garnished debt is subject. Hence, a garnishee order *nisi* does not give priority over debenture-holders who do not intervene by the appointment of a receiver until after the order has been made. In *Norton v. Yates* (54 W.R. 183; 1906, 1 K.B. 112) a garnishee order *nisi* was made on the 17th of January 1905, and on the 19th of January an order was made in a debenture-holders' action appointing a receiver. It was held by Warrington, J., that the debenture-holders were entitled in priority to the garnishor. In accordance with *Re Combined Weighing and Advertising Machine Co.* (*supra*) he pointed out that the debt was not transferred by the garnishee order, and that the priority of the debenture-holders was not displaced. "The debt remains the property

"of the judgment debtor, and such right as the garnishor has over it is subject to all the rights and equities attaching to it in the judgment debtor's hands." Moreover, although the assets are not, so long as the debentures "float," subject to a specific charge in favour of the debenture-holders, yet, as the learned Judge further held, they are subject to a general charge which prevents a prior charge being created. So soon as the debenture-holders claim the property, this general charge becomes a specific charge and has the same priority as the previous general charge. "Debentures create a general charge capable of becoming a specific charge on the happening of certain specific events, but a charge existing before the happening of those events."

In the present case of *Cairney v. Back* (*supra*) the garnishee order had been made absolute before the appointment of a receiver by the debenture-holders, but Walton, J., held that this had no effect in excluding their priority. On the 15th of June 1906 a creditor of the Consolidated Mines, Lim., obtained judgment, and on the same day he served a garnishee order *nisi* on the company's bank to attach the balance of their current account, which exceeded the amount of his debt. On the 25th of June the order was made absolute, and on the 29th of June a receiver was appointed on behalf of a debenture-holder of the company. The bank paid the money into Court, and an issue was directed to determine the title to it. It seems, however, that the principle which has been stated above applies equally whether the garnishee order is *nisi* or absolute. It depends upon the consideration that the order does not operate as a transfer of the debt, and in *Re Combined Weighing and Advertising Machine Co., Lim.*, where this was laid down, the garnishee order had in fact been made absolute. Walton, J., accordingly pointed out that it would have made no difference in *Norton v. Yates* (*supra*) if the garnishee order in that case had been made absolute before the receiver was appointed. Moreover, the making the order absolute does not carry the case as far as *Robson v. Smith* (*supra*), where the debt had actually been paid to the garnishor, even if that can be treated as a decision in favour of the garnishor. But the decision was in favour of the garnishee and not of the garnishor, and it does not follow that the garnishor would be allowed to retain as against the debenture-holder the money so received. There is, indeed, sufficient uncertainty still left about the rights of the various parties interested under such circumstances to suggest that we are by no means at the end of the decisions on the subject. It seems, however, for the present to be settled that a garnishor who has obtained an order absolute, but has not received payment under it, does not thereby acquire any priority over debenture-holders.

After-Acquired Property of Bankrupts.

(From *The Solicitors' Journal*.)

THE recent decision of Neville, J., in *Official Receiver v. Cooke* (1906, 2 Ch. 661) calls attention once again to the illogical distinction which exists with regard to the real and personal after-acquired property of a bankrupt. At first the rule was laid down by the Court of Appeal in *Cohen v. Mitchell* (38 W.R. 551, 25 Q.B.D. 262) that the after-acquired property of a bankrupt was subject to his disposition until the trustee interfered to claim it, and no distinction between real and personal estate seems to have been contemplated. "Until the trustee intervenes," said Lord Escher, M.R., "all transactions by a bankrupt after 'his bankruptcy with any person dealing with him *bond fide* and for value'—as to the necessity of their being for value see *Re Bennett*—'in respect of his after-acquired property, whether with or without knowledge of the bankruptcy, are valid against the trustee.'" But in *Re New Land Development Association and Gray* (40 W.R. 295, 551; 1892, 2 Ch. 138) Chitty, J., while admitting that this statement, taken literally, was wide enough to include all property, declined to apply it to real estate, upon the ground of the conveyancing difficulties which might arise if the legal estate were to be held to vest at first in the bankrupt and then to shift to the trustee upon the intervention of the latter. The Court of Appeal affirmed the decision upon the ground that the title acquired through the bankrupt would not be forced upon a purchaser, and so the point decided by Chitty, J., had not to be determined; but in the course of the argument remarks fell from the Court which indicated that the real distinction was between property which passed by conveyance and property which passed by delivery. "I have never yet," said Lindley, L.J., "heard it suggested by anybody that 'the doctrine had the slightest application to real estate, 'which passes by conveyance and not by delivery.'"

The natural result of this remark, as well as of the difficulty adverted to by Chitty, J., would have been to throw leaseholds into the same category as freeholds, but in *Re Clayton and Barclay's Contract* (43 W.R. 549; 1895, 2 Ch. 212) that learned Judge held that chattel interests in land must be left to be governed by the rule in *Cohen v. Mitchell*. Possibly, he said, some of the reasons given in *Re New Land Development Association and Gray* might apply with somewhat diminished force to the case of a chattel interest, but he did not consider that there were any reasons justifying a further limitation on the general proposition laid down in *Cohen v. Mitchell*. "The language 'of the Court of Appeal is large enough to include all 'property. It is certainly large enough to include

"chattel interests in land, and I consider that I ought to 'apply it to such interests.'" We thus have the result that, while the suggested distinction can only be satisfactorily based upon the difference between property which passes by conveyance and property which passes by delivery, yet it has been so applied as to put freehold and leasehold property into different categories. The exception established by *Re New Land Development Association and Gray* as regards freeholds was followed by Farwell, J., in *Bird v. Philpott* (1900, 1 Ch. 822), and by Kekewich, J., in *London and County Contracts, Lim. v. Tallack* (57 W.R. 408).

The recent case of *Official Receiver v. Cooke* (*supra*) appears to be the first in which attention has been called to the unsatisfactory nature of the distinction which has been established by the cases. After quoting from the judgment of Chitty, J., in *Re Clayton and Barclay's Contract* (*supra*), Mr. Justice Neville said: "Now there he 'draws a distinction between a leasehold interest in real 'estate and a freehold interest in real estate which I 'confess I find very great difficulty in understanding on 'any broad principle. It is quite true that in one case 'you are dealing with a chattel or personal estate, and in 'the other with real estate. But why there should be a 'distinction between real and personal estate in this 'regard I confess I do not think has been satisfactorily 'explained by the decisions which have been cited to me." The question, however, in *Official Receiver v. Cooke* did not relate to this distinction, but to the distinction between equitable interests and legal interests in real estate, and the learned Judge held that he could not exclude equitable interests from the rule in *Re New Land Development Association and Gray*.

The circumstances in *Official Receiver v. Cooke* were as follows: Preston, who had been adjudicated bankrupt in 1893 and had not obtained his discharge, had adopted successively the names of Birkett and Redgrave. After he had changed to the latter name he employed one Sharpe to transact business for him in the name of Birkett. Through Sharpe he agreed to purchase a house at Barnet for £3,200, and this money was found by Preston and a conveyance taken from the vendor to "Birkett." Subsequently, by an indenture between "Birkett" and "Redgrave," Preston purported to take a lease of the house for ninety-nine years to himself in the name of Redgrave, and then in the same name he mortgaged the house by sub-demise to the defendant Cooke to secure £1,750 advanced by Cooke. Cooke acted honestly throughout. In 1902 Preston was again adjudicated bankrupt, and the fraud was discovered. The Official Receiver, as the trustee in the first bankruptcy, claimed that upon the conveyance of the property to "Birkett" the legal estate would have passed

to Preston but for the bankruptcy, and that, under the bankruptcy, it vested in the trustee; and that if in fact it did pass to Sharpe, yet he was a trustee for Preston, and the equitable interest taken by Preston would equally vest in his trustee. But if the trustee took only an equitable interest, it was important to trace the subsequent dealings with the legal estate. If Sharpe, under the name of Birkett, was legal owner, and if he executed the lease to "Redgrave" for ninety-nine years, then a legal term was created, and also, by the mortgage, a legal sub-term was created in Cooke. Upon this view of the facts, Cooke would have been entitled to priority by virtue of this legal estate. The learned Judge, however, held upon the evidence that, while the original conveyance operated to vest the legal estate in fee in Sharpe, yet the lease was not in fact executed by him, so that the question which he had to determine related only to the equitable interest in the property.

If the distinction established by *Re New Land Development Association and Gray (supra)* could have been confined to the legal estate in freeholds, then the equitable interest taken by Preston would have been subject to his disposition, and he would have created an effectual charge in favour of Cooke. But Neville, J., did not consider that any such further refinement could be introduced. No distinction has been suggested in the cases between an equitable and a legal interest in real estate, and in the learned Judge's opinion it was proper "to treat the matter "at present as lying between the broad divisions of property, real estate on the one hand and personal estate "on the other hand," although he intimated a desire that the subject might receive discussion in the Court of Appeal, and that it might thus be put upon a more satisfactory footing. It is too probable, however, that such discussion would only perpetuate the present state of affairs, and it is to be hoped that the attempt to deal with the matter by legislation, which has been made in recent sessions, will in the near future prove successful.

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, Dec. 14th, was 150, viz.:—New Bankruptcy Proceedings published in the *London Gazette*, 82; Deeds of Arrangement registered, 68. The respective numbers in the corresponding week of last year were: Bankruptcies, 92; Deeds of Arrangement, 77—total, 169;

being a decrease of 19. The total number of commercial failures recorded during the 50 weeks of the present year is 8,071; the total number recorded in the corresponding 50 weeks of last year was 8,687, showing a decrease of 616.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, Dec. 14th, was 168. The number in the corresponding week of last year was 161, showing an increase of 7. The total number filed during the 50 weeks of the present year is 7,373; the total number filed in the corresponding 50 weeks of last year was 8,115, showing a decrease of 742.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, Dec. 14th, amounted to £2,300,154, by way of addition to £1,586,160, previously issued by the same companies. The amount registered in the corresponding week of last year was £760,048, showing an increase of £1,540,106. The total amount registered during the 50 weeks of the present year was £75,844,044 (in addition to the issues in previous years by the same companies), as compared with £75,989,431 for the corresponding 50 weeks in 1905, showing a decrease of £145,387.

The Profession in Scotland.

Personal.

Mr. James Haldane, Chartered Accountant, of the firm of Lindsay, Jamieson & Haldane, 24 St. Andrew Square, Edinburgh, who died recently, aged seventy-five, left personal estate amounting to £82,734.

Bankruptcy Reform.

A meeting of the East of Scotland Bankruptcy Reform Association was held in the Goold Hall, St. Andrew

Square, Edinburgh, on the 12th inst, Mr. H. W. Hunter, Chairman.

Mr. J. Wright Forbes, advocate, delivered a lecture on the "Law relating to the Punishment of Fraudulent Debtors, and the Rights of Ordinary Trade Creditors in Liquidations of Limited Companies." At the outset the lecturer referred to the state of the law prior to the passing of the Debtors Act, 1880, which abolished imprisonment for debt, alluding especially to the Act of Grace as a means of preventing innocent debtors being kept in prison by vindictive creditors. He pointed out that when the Legislature proposed to abolish imprisonment for debt, and thereby to remove a powerful deterrent against the reckless and dishonest incurring of debt, it had to face the problem of making provision for the fair protection of creditors without putting undue burdens on debtors. After a brief allusion to the harsh treatment meted out to debtors in early times, and explaining the common law of Scotland in regard to fraudulent bankrupts, Mr. Forbes criticised the Debtors Act of 1880, and minutely examined the provisions dealing with the punishment of fraudulent debtors. The Act, he said, was experimental, and the experience of twenty-six years had shown that it had failed to attain the objects aimed at. It was not a well-considered measure. It failed, because (1) the persons who framed it did not fully apprehend the law they proposed to amend, (2) the wording of the Act was defective, (3) the procedure prescribed for prosecutions was cumbersome and ineffective. Considering that since its birth there had been a general consensus of opinion by those most interested in condemning the provisions of the statute dealing with fraudulent debtors, it was amazing that no amending Act had yet been passed. He then detailed suggested amendments for more effectually dealing with wilful and fraudulent debtors. The second part of the lecture was devoted to a short exposition of the law in regard to the liquidation of limited companies and the rights of creditors.

Book Debts and Bankruptcy.

In moving the adoption of the report and accounts of the Guardian Society of Scotland (Lim.), at Edinburgh on the 12th inst. for the year ending 31st October 1906, the Chairman, Mr. H. W. Hunter, said the recovery of claims during the past year had been extremely satisfactory as far as the subscribers were concerned, the amount recovered being equal to 15s. 4d. per £1 of the total sum dealt with during

the year, compared with 14s. 11d. last year. The disputed cases undertaken by the society had in all cases been successfully contested in the Courts where legal proceedings had been necessary, but many of these cases had been settled by the assistance of the society alone. The directors had again to point out the danger to merchants handing claims to parties who professed to recover them without charge, and merchants might well ask the question, "Are the numerous bankruptcies of small traders not in some measure due to this practice?" There were many small traders who, at certain times of the year, owing to the difficulty of getting in their book debts, were unable to meet their liabilities. His attention had been directed to a society established in England for the recovery of claims and winding up of estates, supported by the principal merchants of the district. The assets of that society now amounted to £22,000 and the gross income to £6,900, and if the merchants in this district would combine, he saw no reason why such a society should not be built up in Edinburgh. The directors were pleased to observe that the East of Scotland Bankruptcy Reform Association, now composed of 200 of the principal firms of the city, had taken up vigorously the subject of the reform of the bankruptcy laws of Scotland.

At Clerkenwell County Court recently a jury, having heard only one side of a case, interposed with the remark that they were quite satisfied as to the correctness of the statements made.

The opposing counsel: This expression of opinion is premature, and I am entitled to have my case heard.

Judge Edge agreed. Addressing the jury, his Honour said he would tell them a little story. A certain monarch—King James I., he believed it was—found himself disturbed at what he considered to be the slowness of legal proceedings, so he determined to sit himself in the King's Bench Division. He heard plaintiff's case, and was so satisfied that he was prepared to give judgment immediately in his favour. The Lord Chief Justice reminded his Majesty that he should hear defendant's case before giving judgment. He did so, and at the close exclaimed, "I don't know which to believe, and I will never sit in the Court again." His Honour added that he thought the story would be of some service to the jury. They should be content to hear both sides before expressing an opinion.

Counsel on both sides having agreed to leave the decision of the case to his Honour, the jury were discharged.

A PERMANENT ANNUITY.—The following very amusing story has appeared in a contemporary:—A Scottish Life Office sold an annuity to Mr. Pat Maloney, and paid, and paid, and paid until they reckoned his age was about 100, when they sent an inspector to Tipperary to interview the annuitant, and to make sure they were paying the annuity to the proper person. The emissary called at the cottage and asked if Mr. Pat Maloney was in; no, he was in the field, ploughing. A centenarian working ploughman seemed rather an anomaly. The insurance man found the field, and a man of about 60 at work. "Are you Mr Patrick Maloney?" "Yis," he says, "I am." "Are you the Mr. Maloney who draws the annuity from the—— Insurance Company?" "Yes, bedad, and mi father before me."

Bank Rate of Discount.

April 5th 1906	..	..	..	..	..	3½%
May 4th "	..	..	..	..	..	4%
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Oct. 11th "	..	..	..	..	..	5%
Oct. 19th "	..	..	..	..	..	6%

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LAW REPORTS.

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Extract from *Auditing*, by LAWRENCE R. DICKSEE, F.C.A.
(Page 190)

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Leading Articles.

Solicitors' Accounts.

IN our issue of the 15th inst. we mentioned that, in pursuance of a requisition signed by a number of well-known solicitors, a special general meeting of the Law Society was held on the 14th inst. to consider the advisability of appointing a Committee to inquire into the

subject of solicitors' accounts and audit. No representatives of the press were allowed to be present at this meeting, but some information as to what transpired has been communicated, from which it appears that the resolution submitted called for the appointment of a Committee to consider what rules should be adopted in the following matters:—(a) The methods in which a solicitor should keep the accounts of himself and his clients, and the audit thereof. (b) The keeping and audit of Trust Accounts. (c) The conduct of professional business. (d) The formation of a guarantee fund. The motion was moved by Mr. JULIUS BERTRAM, M.P., and seconded by Mr. J. W. HILLS, M.P., both well-known solicitors, who urged that, unless the Society found means to adopt such reforms as have constantly been asked for, they might expect to have these reforms forced upon them by Parliament. After a somewhat protracted debate, however, the motion was defeated by a show of hands, the proposal as to the formation of a guarantee fund being apparently the most widely opposed. A poll was demanded, and fixed for the 7th, 8th, and 9th prox. It will thus be a fortnight or more before any official decision with regard to the matter will become known.

It is not without interest, and will doubtless not be without influence upon the rank and file of solicitors throughout the country, to observe that *The Times* is strongly in favour of the reformers; and, indeed, it seems to us that the only possible objection to proposals (a), (b), and (c), enumerated above, that can be put forward by those who have nothing to hide must be one that is very largely dictated by wounded vanity and a sense of one's own self-importance. Accounting parties, whether they

like it or not, must be at all times ready to account, and in cases where they may not be called upon to account until after the lapse of a great number of years the need for systematic methods of account are especially evident; while a systematic professional audit would be of value not merely as practically ensuring that adequate methods of accounting are in use, but also that the accounts are correct and in order in every way, and thus ready for production at any future time when called upon. Hitherto, the chief argument in the discussion has centred round the risk of clients losing through the dishonesty of solicitors; but although this is undoubtedly a very serious matter, to which attention has been much drawn of late, it must be admitted that the risk of such loss is not really very serious, and that those who know themselves to be honest may very naturally feel that they at least should be exempted from the present agitation. An aspect of the question which appears to have been almost (if not entirely) overlooked is that solicitors who keep their accounts properly, and regularly submit them to audit, will derive exactly the same benefits from that procedure that have been generally recognised by business men engaged in less exalted callings—namely, without any undue expenditure of their own valuable time they will be able to obtain periodical statements of account prepared by experts quite independent of their own staff, and will be themselves for all practical purposes protected against fraud from within. In view of the relatively large amount of money that of necessity passes through a solicitor's office, and has to be dealt with in cash, the systematic audit as a safeguard against fraud is, in point of fact, far more necessary than in most commercial businesses of a similar size.

How it comes about that a majority of those attending the meeting held on the 14th inst. should be opposed even to the appointment of a committee to *consider* such apparently essential questions it is difficult to understand. The vote was, we think, largely due to the influence of the Council, which, according to *The Times*, consists of two classes of men from whom it is hopeless to expect reform. There is, our contemporary says, a party of old-fashioned honest solicitors, who, at their advanced age, resent interference which will affect their own practice; and another party of 'solicitors, in a large way of business, who possibly are not sufficiently impressed with the seriousness of the abuses that are chiefly complained of. We do not quite understand what is implied by the last-named category; but if it be suggested that these men, confident in the proper management of their own affairs (no doubt the great majority of them have their accounts regularly audited) are quite indifferent as to how rival practitioners conduct their respective businesses, it is not saying very much for the *esprit de corps* that should obtain among the members of any profession.

Nor do we think that any fears as to the expense of an audit are really at the bottom of this opposition to reform. Anyone who has taken the trouble to inquire must know that in three cases out of four there is a direct saving effected by a proper audit which considerably more than covers the annual fee. They must also know that the fees likely to be charged in the case of small practitioners would be sufficiently low to represent a practically negligible quantity, for it goes without saying that solicitors are always put on the best possible terms by accountants in view of the fact that a con-

siderable proportion of most accountants' business comes to them through solicitors. We are afraid, therefore, that it comes down to this—that there is not really any solid or sufficient reason for the opposition to reform which was apparent at the recent general meeting. The result of the poll may, of course (and, we hope, will), show that the rank and file of solicitors are more broad-minded and more amenable to public opinion. Failing that, it is obvious that solicitors are by their conduct doing their best to facilitate the policy of those bureaucrats who are desirous of officialising everything. The Public Trustee Act may be regarded as a case in point, and it is obvious that this measure, injurious as it is to accountants, is directed chiefly against solicitors, and has been rendered possible only by their curious blindness on the subject of the duties and responsibilities that they owe to the public.

The Prevention of Corruption Act and Agency Fees.

IN view of the uncertainty that prevails in many quarters as to the precise effect of the Prevention of Corruption Act, 1906, which comes into force on the first day of the new year, considerable interest attaches to the following letter that has been issued by the Council of the Law Society to the Hon. Secretaries of the various Provincial Law Societies:—

Law Society's Hall,
Chancery Lane, W.C.

November 12th 1906.

DEAR SIR,—In reply to your letter of September 23, it does not appear to the Council that any difficulty can arise unless the solicitor treats the London agent's bill as a disbursement, which, according to *Pomeroy's* case (1897, L.R. 1 Chanc. 284), is not the right way of dealing with it.

The correct course there pointed out is to incorporate the agent's items in the bill, as if they were items of work done by the solicitor himself. By analogy, though there is no definite decision on the point, a similar course should be adopted as between the solicitor principal and his agent, when the latter is a country solicitor, and an arrangement has been made for the transaction of business on agency terms. In no case, in the opinion of the Council, should the agent's bill be referred to as a payment or disbursement, but if the agent's charges are rendered in full as a separate item and not incorporated in the bill, then a reference must be made to the fact that such charges are subject to an agency allowance.

The country agent employed by a solicitor in the case above referred to should render his charges to the principal in the same manner as a London agent renders them to his principal.

Yours faithfully,

FINLAY DUN, Esq.

E. W. WILLIAMSON, Sec.

Hon. Sec. Liverpool Incorporated Law Society.

The reliability of the views put forward by this high authority as to the precise operation of the new Act is, we think, unquestionable; and the point is of especial interest to our readers, in that agency charges are by no means confined to solicitors, but are frequently to be found in operation among firms of accountants carrying on business in different districts. The distinction that is drawn has, moreover, the merit of being entirely acceptable to the layman of average intelligence. To represent to a client that one has made certain payments to an agent when in point of fact one-third, or some other fraction of the correspondingsum, has been retained by the firm claiming to have made such payment, is an obviously inaccurate statement, which could hardly be justified by the most ingenious form of special pleading. The matter is, however, upon an entirely different footing if all charges are included upon the same bill as representing so much work done, without distinguishing precisely by whom the work was done. A solicitor or accountant employing an agent to perform work for him

as a matter of convenience, whether for considerations of distance or otherwise, is himself responsible for the due performance of that work just as though it had been conducted by himself personally or under his personal supervision. He is thus clearly entitled to charge his client for that work, and the client must be held to have notice of the fact that the charges made to him represent something in excess of actual out-of-pockets, and include a profit loading on the part of the person whom he has employed. All this is perfectly intelligible and straightforward, and, we think, effectually disposes of all questions of agency charges, but not of all possible questions that may arise on the interpretation of the new Act.

It has already been held that an auctioneer is not entitled to retain a commission allowed to him by advertising agents or printers in respect of disbursements incurred on behalf of his clients, and it thus seems clear that such commissions are at law illicit, if not absolutely corrupt. At the same time it may be pointed out that, under some circumstances at least, very strong arguments might be put forward in support of what is, we believe, still a very general practice among auctioneers. If an agent, whether an auctioneer or not, incurs certain liabilities on behalf of his principal, under such terms that his liability to outsiders still remains, whether or not he is able to recover from his principal, it seems only reasonable that any deductions he may be able to secure should be regarded either as a cash discount or as a *del credere* commission, and, as such, something actually earned by him, and capable of being retained by him as against his principal. At first sight there appears to be a good deal to be said in favour of this line of argument, but it may be pointed out that before the Act of

1906 can be invoked it is necessary that the commission should be both a secret and a corrupt one. Unless the commission were an excessive remuneration for the risks involved, it clearly could not be corrupt, and thus the only point that can arise is on the question of secrecy. This can be readily got over in practice by requesting a remittance from all clients in advance for an amount sufficient to cover all necessary out-of-pockets; such request being accompanied by an intimation that, failing payment by a certain specified date, the client will not be accorded the benefit of such commission as the agent may be able to secure for prompt payment. Such a request as this would be so entirely reasonable that we have no hesitation in saying that under the circumstances named the Courts would hold that there had been sufficient disclosure to entitle the agent who had actually incurred out-of-pockets on behalf of his client to retain for his own benefit any reasonable commission that he might be able to secure upon so doing.

Another form of commission—the exact legality of which has, we believe, still to be decided—is that paid by certain business houses who employ what we may describe as undisclosed agents, paying them a commission on whatever business they may introduce, such commission being paid without the knowledge or consent of the customer or client introduced. In a case like this it seems to us that much would depend upon the precise facts. There is, so far as we are aware, no law requiring a person who is in fact an agent to explain the circumstance to those whom he may advise or influence, unless he occupies some fiduciary position towards them. The introducer cannot, of course, for obvious reasons, claim to be the agent of, and to receive payment from, both

sides; but those who allow themselves to be influenced by the advice of persons whom they have not paid to advise them cannot, it seems to us, be very well heard to complain if it should afterwards transpire that that advice has been given from interested motives, and has resulted in the receipt of a commission by the person giving such advice. At the same time, much would depend upon the exact facts of the case, and an undisclosed agent who deliberately represented himself as being a disinterested party, for the sake of securing a commission, might quite conceivably be held to be acting corruptly. The payment of a commission to such an agent would, however, we think, not be corrupt unless made under such circumstances, and with such knowledge, as to virtually constitute the case one of conspiracy on the part of agent and principal.

It is obviously unnecessary to carry the matter further than this. Viewed quite broadly, it seems to us that the new Act makes nothing punishable which any reasonably honest person would wish to do, and doubtless the safest way of securing immunity from its provisions is to take care that one's actions may fairly be said to come under this heading. Whether or not the Act will ever become really effective depends, of course, almost entirely upon the amount of support which it receives from the general public. In this connection the circular (which we reproduce in another column) that has been recently issued by the Secret Commissions and Bribery Prevention League will be found of interest, especially to those who have in the past found themselves, albeit unwillingly, compelled by the general custom to pay commissions which in their more enlightened moments they must have recognised as being essentially improper. Of all suc!

commissions, obviously the most improper are those paid to, or solicited by, someone occupying a position of trust, as a consideration to induce him to betray that trust either by ordering goods that are not required, or at more than a fair price, or by passing goods that are unsatisfactory as to quantity, quality, or price, or in any or all of these respects.

Weekly Notes.

Directors and Allotments. A recent issue of *The Law Journal* draws attention to the fact that while the provisions of the Companies Act, 1900, made more certain the duty of directors to refrain from going to allotment in the absence of a reasonably sufficient amount of subscribed capital, the principle then enunciated was no new one. There is, our contemporary points out, no English case in which directors going to allotment on an insufficient capital have been held guilty of misfeasance, but the point has apparently been so decided in Scotland. We do not, of course, dispute the accuracy of our contemporary's statement to this effect, but it may, perhaps, be pertinent for us to remind our readers that the Companies (Winding-up) Act, 1890, does not apply to Scotland, and that, therefore, the term misfeasance, as applied to company directors, must of necessity have a somewhat different signification to that which it has acquired in England since the Act of 1890 came into force. Apart from the question of insufficient subscriptions, however, directors proceeding to allotment must perform this—like all other duties that fall upon them—with a due sense of their responsibilities. Not merely must they refrain from going to allotment if subscriptions be obviously inadequate; where an issue is over-subscribed, they must discriminate between applicants solely in the interests of the company, and not in the interests of themselves or their friends. It may, in practice, be extremely difficult to *prove* a breach of good faith in this direction; but, assuming that the facts are admitted, or can be proved, the liability of a director in so distinguishing between applications for shares as to cause the company to suffer damage appears to be beyond question.

The Irish Institute and Advertising.

A correspondent has forwarded to us copies of two circulars issued by the Institute of Chartered Accountants in Ireland, in the years 1898 and 1900, in reference to canvassing. The first-named draws attention to Bye-Law 103 (Subsection 4), which reads as follows:—"Members of the Institute shall not advertise by public journal, circular, or otherwise, for business purposes, or issue any circulars to persons other than their own clients," and states that the Council attaches much importance to the observance of this rule, adding that breaches thereof will in future be dealt with rigorously. This circular concludes with the statement that the insertion of a member's name, or the firm to which he belongs, in any diary or directory, or other publication, for the insertion of which payment is made, will be regarded as advertising. The circular dated 1900 states that one or two cases have been brought before the Council of serious breaches of professional etiquette, and violation of the spirit of the bye-laws, through the canvassing by members for positions not actually vacated by fellow-members, or the acceptance of vacant positions that have been sacrificed by members through adhering to a principle of professional practice, and declares the determination of the Council to resort to extreme measures if, after the issue of this particular notice, further cases should be brought before it. It occurs to us that if these views are rigorously upheld at all times they might quite possibly be found unduly harsh in practice, but the general principle involved is, of course, unexceptionable, and agrees with the views that we have always expressed in these columns.

Auditors and Dual Appointments.

A correspondent writing to a recent issue of *The Financial News* revives the question that has more than once been raised in these columns as to the propriety of a member of a firm of accountants appointed auditors of a company occupying a seat upon the board. In the case of a purely private company there seems no reason why any person approved by the general body of shareholders should not be appointed the auditor, provided he is qualified to discharge the duties of the post; but where the members of the company are not all known to one another it is clear that, unless the auditor is an absolutely disinterested person, the safeguard provided by a proper audit is withheld. The Companies Act, 1900, goes, if anything, a little further than this in

Section 21 (3), which provides that a director or officer of the company shall not be capable of being appointed auditor of the company; but the clause is badly drawn, and thus readily permits the very evil it was designed to avoid by enabling the partner or clerk of a director or officer to be appointed auditor. The point is, it seems to us, one upon which a formal expression of opinion upon the part of the Council would be valuable, for it certainly does the profession as a whole no good that certain of its members should be found willing to accept appointments which, in the circumstances of the case, they cannot be expected to fill with rigid impartiality.

"Archer's Tables for the Repayment of Loans, &c." We regret that in the review which appeared on p. 751 of our issue of the 15th inst. the name of the author of these valuable Tables should have been incorrectly stated. They are compiled by Mr. J. A. Archer, F.I.A., and published by Messrs. Shaw & Sons, Fetter Lane, E.C., 17s. 6d.

An Unusual Statute of Limitations Case. The case of *Alston and others v. Minard*, which came before Mr. Justice Darling a short time since, raised an interesting question affecting the interpretation of the Statute of Limitations. The action was brought for the recovery of £1,200 and interest alleged to be due under a mortgage deed. It appeared that the plaintiff advanced £1,200 to the defendant in 1881 on security of a mortgage of certain freehold property. In 1886, on the marriage of his daughter, the defendant assigned the property in question to trustees for her benefit, subject to the payment of the principal sum and interest. Since this assignment the trustees under the settlement had paid the mortgagee interest, and nothing whatever had been received from the defendant. When the plaintiffs claimed the principal sum due under the mortgage the defendant alleged that, as he had not paid any interest for upwards of twelve years, he was protected by Section 8 of the Real Property Limitation Act, and therefore could not be sued. His Lordship came to the conclusion, although apparently with some hesitation, that the payments made by the trustees appointed by the mortgagor under the marriage settlement were sufficient to take the case out of the Statute of Limitations, and he therefore gave judgment

for the plaintiff for the amount claimed, with interest and costs. The case seems to illustrate the importance of receipts for rent or mortgage interest being invariably made out in the name of the person legally liable therefor.

The Double-Account System and Depreciation. A short time since an inquiry was held by the Board of Trade at the Hove Town Hall into the affairs of the Hove Electric Lighting Company, Lim., at the instance of the Hove Town Council, which sought to secure a reduction in the price of the current. The *Brighton Herald*, in reporting the proceedings, states that a representative of the well-known firm of accountants, Messrs. Price, Waterhouse & Co., made the startling statement that he did not think that a company of this kind needed a reserve—it was a luxury; but under cross-examination admitted that he could not name a company that had no depreciation or Reserve Fund, or both, and he further admitted that he was not an electric light expert. If this obviously condensed statement of the evidence put forward does the witness any injustice we can only say that we hope we shall be supplied with a verbatim copy of the evidence. In the meanwhile, however, we cannot refrain from pointing out that it is particularly unfortunate that such statements should find their way into the press, in that they directly encourage local authorities that are desirous of throwing upon the future certain consequences of their own present extravagance; but, disregarding the question of local authorities' accounts (which was, of course, not then under discussion) we may point out that the statutory form for the accounts of electric lighting undertakings provides for the creation of a Depreciation Fund and a Reserve Fund, and inasmuch as these particular companies enjoy a concession for a limited number of years only, we should have thought that it must be obvious to anyone—even if he were not an electric light expert—that something more than mere maintenance must be charged against revenue before arriving at a figure of profit that can be prudently regarded as available for dividend.

How to Read a Balance Sheet. In the article which appeared in our issue of the 24th ult. we said that there were some points in the paper recently read by Mr. F. W. Pixley, F.C.A., at a meeting of the

Glasgow Chartered Accountants' Students' Society, with which we were not in entire agreement. We do not know whether our expressions of opinion have encouraged the writer of the article which appeared in the Financial and Commercial Supplement of *The Times* on the 10th inst.; but, however that may be, our contemporary's issue of that date contains an article upon Balance Sheets (reprinted in another column) which, mixed up with a certain amount of sense, contains much that is pure rubbish. In spite of its absurdity, however, this article is of some practical value, in that it may be taken as illustrative of the point of view of the average investor, who has never properly studied the subject of accounts, and yet thinks that he is business man enough to understand all about it, and to teach others how accounts should be prepared.

Correspondence and Enquiries.

All communications to the Editor should be by letter only.

[We are at all times ready to insert correspondence on matters of interest to the Profession, but we do not of course hold ourselves in any way responsible for the opinions expressed by our correspondents. Correspondence intended for current issue must reach us at the latest by Wednesday afternoon; and must in all cases be accompanied by the name and address of correspondents, not necessarily for publication, but as a guarantee of good faith.]

Accountants' Lien on Books.

(To the Editor of The Accountant.)

SIR,—Could you please give me an answer to the following question in the columns of your valuable paper:—

I have prepared accounts for a person who has since had to stop business owing to the claiming of machines by the holder of the hire-purchase agreement.

I hold the books of the firm. Have I a lien over the books until my fee is paid (1) against person who has financed the firm, and who holds the hire-purchase

agreement; (2) against the Official Receiver, should the proprietor of the business go into bankruptcy?

Your reply would be much esteemed.

Yours faithfully,

December 18th 1906.

A. B. C.

Debentures—Priority.

(To the Editor of The Accountant.)

SIR,—A. and B. are two American railway companies, A. being the larger of the two. B. leases to A. its own lines at a fixed rental, payable quarterly. This rent constitutes the whole income receivable by B., out of which, of course, it has to meet its expenditure, debenture interest, &c.

A. has issued debentures, secured by a first charge on the lines, rolling stock, &c., owned by it. The interest on these debentures is also payable quarterly on the same date as the rent to B. becomes due.

When, on the rent and interest becoming due, A. cannot meet both, which would have priority?

Should the rent be in arrear B. would distrain, but the A. debenture-holders to protect their own charge would appoint a receiver.

B. would, however, I presume, be entitled to take possession of its own lines, but what would become of the quarter's rent?

Would the receiver be compelled to pay B. the quarter's rent before satisfying the debenture interest?

Should the rent payable to B. be shown in A.'s accounts before interest to debenture-holders?

I shall be glad if some of your readers will enlighten me upon the above points.

Thanking you in anticipation,

Yours truly,

December 19th 1906.

A. F. Y.

[Surely it must be obvious to the meanest intelligence that this question cannot be answered in the absence of the terms of the debenture issue and of the agreement between A. and B.—ED. *Acct.*]

Income Tax.—Foreign Earnings.

(To the Editor of The Accountant.)

SIR,—A resident in England who frequently visits America derives profits from trades carried on there;

the profits of such trades are not remitted to England, but are paid into a banking account in the United States. Subsequently, cheques in payment of accounts owing by him in England are issued on this American bank account; does this involve the taxation for income in England on such profits or withdrawals?

December 12th 1906.

INDEX.

Building Societies' Accounts—Audit.

(To the Editor of The Accountant.)

SIR,—I shall be glad to have your opinion or that of your readers on the following point arising in the audit of building societies' accounts.

At the last directors' meeting held in the financial year certain loans are sanctioned, but the mortgages in connection therewith are not completed nor are the cheques drawn before the close of the year. Entries are made in the Cash Book as if the cheques had been drawn, and the loans are included in the amount due to mortgagees in the accounts and in the actuary's valuation.

Would the auditors be justified in passing these items without directing attention thereto in their certificate, bearing in mind that the total amounts the Society can receive on deposit or loan is limited to two-thirds of the amount secured by mortgages from its members.

Yours faithfully,

20th December 1906.

EBOR.

Port Elizabeth and District Accountants' Society.

The Administration of the Estates of Deceased Persons.

By R. H. H. STOCKDALE.

PAPER read before the above Society on Tuesday 6th November 1906.

This being a meeting of accountants I have thought it well to confine my remarks on this subject mainly to points

affecting or appealing to such, but it will be necessary to refer, at the outset and in some detail, to certain general principles governing the appointment and business of an executor.

There is an old recipe for "jugged hare" which lays down as an essential to the dish the necessity for "first catching your hare." Similarly before you can administer the estate of a deceased person three things are essential:—

- (1) That there should be a deceased person.
- (2) That the deceased should have an estate to administer.
- (3) That the administering of such estate be entrusted to you.

Now it is a truism to assert that death is the common lot of all flesh. At some point or period in our experience the wheels cease to go round, the machinery comes to a dead stop, and life and the material affairs thereof cease to concern and trouble us. But a man can no more die unnoticed than he can live unnoticed—at least in centres of civilisation such as are represented by this town of ours—and especially is this the case where he has succeeded, either by bequest or inheritance, sheer enterprise and hard work, or it may be in some more questionable manner, in becoming the possessor of property, whether of a movable or immovable kind.

Now when a man of property dies his estate is either testate or intestate. That is to say, he has either made and left a will, or he has neglected so to do; and it is surprising, even in this advanced age, how many persons of substance postpone putting into proper documentary form the expression of their desires concerning their possessions until the opportunity so to do is taken from them altogether.

There are certain advantages secured by the making of a will which, however, it is no part of my purpose to enlarge upon here. The making of a will may leave your heirs, as is sometimes the case, a legacy of litigation, but it will more probably result in your desires for the disposal of your affairs being strictly and legally carried into effect.

Under Ordinance 104 of 1833, Section 3, it is provided that "every person who shall at the death of the maker thereof have in possession any deed being or purporting to be the last will or codicil of any other person . . . shall forthwith deliver such deed to the Master of the Supreme Court, if residing in Cape Town or district, or, if residing elsewhere, to the Resident Magistrate of the district in which he resides." In addition to the original will it is required that a copy be also supplied at the same time, such copy being authenticated by the Resident Magistrate if away from Cape Town district, and kept by him until he is advised the Master has received the original. This provision has resulted from the circumstances existing in bygone days when the communication between the outlying country districts and

Cape Town was often disturbed, and when mails as often as not failed to reach their destination, and it is intended to secure that either the original will or a duly-certified copy thereof is always available and in a safe place. It is further incumbent upon the next-of-kin, of whatever degree of relationship, who may be in the house or neighbourhood at the time of death—or upon the householder or other responsible person—to give written notice of the death to the Master, a Resident Magistrate, or, in the remoter districts, to the field-cornet of the ward in which the death occurred. Very rarely nowadays is the field-cornet troubled in this connection, as almost invariably the death notice is sent direct to the nearest magistracy.

As throughout this paper I shall deal only with the method of procedure usual in this town, I shall omit all reference to the obligations existing in regard to other places and districts.

The death notice is made out on a set form specially provided, and must be rendered in duplicate with an inventory duly stamped and also in duplicate of the effects of the deceased, and, if possible, a statement or appraisal of their value. The death notice must be filed within six days after the death, or the person responsible—that is, the next-of-kin or householder already referred to—becomes liable to a fine of £5 under Section 5, Act 27 of 1895. In the case, however, where the deceased was one of two spouses married in community of property, the period within which the death notice must be filed is lengthened to six weeks, though I may state the regulation concerning the period and the fine mentioned above is more honoured in the breach than in the observance, for it not infrequently happens that, from a variety of causes, death notices are filed months and sometimes years after the death has taken place.

The death notice, duly signed by the person reporting the death, should state:—

- (1) Deceased's name in full.
- (2) Place of birth.
- (3) Names of parents.
- (4) Age.
- (5) Business or profession.
- (6) Whether single, married, widow, or widower.
- (7) Date of demise.
- (8) Name of surviving spouse (if any).
- (9) Date of death of pre-deceased spouse (if any).
- (10) Where death occurred.
- (11) Names of children, whether majors or minors.
- (12) Whether any property left.
- (13) Whether left a will.

If there is a will in the possession of the person filing notice of death it is usual to attach same, with a fair copy, to the death notice and inventory, covering the whole with a letter addressed to the Master, with blank letters of administration of the required value, asking for the appointment of the person or persons named in the testament as executors testamentary. Such executor or executors must at the same time state in writing their readiness to undertake the trust and to discharge the duties devolving upon them. If there is no will a letter from the next-of-kin, or other relative, or even from a creditor of deceased's estate, is attached to the documents mentioned above praying the Master to call a meeting before the Resident Magistrate at an early date with the view to the appointing of an executor dative. The only difference, therefore, in the manner of the appointment of an executor to administer the estate of a deceased person is that, in the first instance, he or she is nominated to such office in the will; and, in the second instance, by the next-of-kin at a meeting held for that purpose; the confirming of the appointment in both cases being in the hands of the Master of the Supreme Court. An executor dative must also convey to the Master, in writing, his willingness to act before he can be regularly and formally appointed.

Inventories.

Subject to a solitary exception, whenever any person dies an inventory *must* be taken of all goods and effects, of whatsoever kind, belonging to the deceased. The exception is in the case where the surviving spouse has been lawfully appointed sole heir and sole executor of the estate and will of the deceased. Even in this case it is best to follow the general custom, for it sometimes happens that the registrar of deeds will decline to complete a transfer of landed property sold by such sole heir and executor until an inventory of the assets has been made or an account filed.

In every case the inventory must be made and signed in the presence of two witnesses who must be qualified to serve on juries, and of such heirs and legatees as may attend.

It is at all times lawful for the Supreme Court and Circuit Courts, or for any Judge of the Supreme Court, on due cause being shown, to order that an inventory be taken by any person or persons named, or to appoint a curator to take charge and custody of any joint estate. Further, should a surviving spouse wilfully neglect to cause an inventory of the joint estate to be made within the specified period of six weeks, or should he or she knowingly omit to render a complete inventory, he or she is liable to forfeit all right to and share in anything which may thereafter accrue to the joint estate.

The appointment of a curator would probably be made by the Master in the case where an owner of property died

leaving no known heirs in this country, or when the executor named in the will of the deceased is not, at the time of death, resident in this colony.

If any person on whom the duty of making an inventory devolves should make a false one for fraudulent purposes, such offender on conviction is liable to imprisonment with or without hard labour for a period of two years, or to be subjected to a fine, or to both, as the Court shall decide. Where, however, a wrong inventory has been made in error, the result of an insufficient knowledge of the affairs of the deceased, the Master will merely require a corrected statement.

Every original inventory must have affixed to it revenue stamps representing in value the office fee payable thereon to the Master. Where no valuation of the assets is given on the inventory the stamp duty is three shillings for one folio not exceeding one hundred words, and on every succeeding folio of one hundred words two shillings. Where a valuation is given, if such valuation does not exceed £40, a shilling stamp must be affixed; over £40 and under £100, a three-shilling stamp will suffice, and for every additional £100, or part thereof, another shilling. The Master always has the right to demand a valuation, by a sworn appraiser, of the property detailed in the inventory, when no valuation is given by the person filing same.

Where possible, an appraisalment should always be given, as the Master requires this to enable him to fix the amount of security to be furnished by the executor dative before granting him letters of administration. It also enables the Master to check the values of properties realised by public or private sale, or transferred in any other way to heirs or others. Letters of administration are required of the value of ten shillings where the estate is £40 or under, and where it exceeds this figure a twenty-shilling form is necessary. These are obtainable at their face value at the office of the Civil Commissioner.

In the case of an intestate estate, where a meeting of the next-of-kin has been held and an executor dative appointed, such executor is required to furnish the Master with a surety bond for an amount, in round figures, equivalent to the value of the estate he has to administer. Such bond must bear a revenue stamp of the value of seven shillings, and must be signed by the executor nominated and two persons of standing, who shall be certified as satisfactory sureties by the resident magistrate. Usually the surety bond is sent down by the executor named, together with the blank letters of administration and written notice of the acceptance of the trust.

Where an inventory has been filed and accepted, and no values stated, it is an executor's first business to obtain an appraisalment of the assets in the estate and to furnish the corresponding surety bond. Until this is done the Master will not confirm his appointment. It sometimes

happens that additional inventories have to be filed; for instance, in cases where further property is discovered, or other assets come into the estate of the deceased, and it is incumbent upon the executor to furnish further surety bonds to the extent of the value of such additional asset or assets.

Letters of administration are not granted to executors residing outside the colony, and should an executor testamentary, whose residence is in England, for instance, come to this colony for the sole purpose of administering the estate of a deceased person, the Master may require him to give security before granting letters of administration.

An executor testamentary may decline this office, to which he is nominated under the will of the deceased, in which event an executor dative is appointed in the usual way. Again, an executor testamentary may, in the exercise of the power committed to him for that purpose, assume any other person with him in the office. Such assumed executor is, under Section 24 of the Ordinance, regarded as in the same position as an executor dative. This business of assumption is probable in the case where the executor appointed under the will is a woman, or is elderly, and where the task of liquidating and distributing the estate involves technicalities or delays. Usually, however such executor appoints an agent who is a practical person, and who undertakes the responsibility, without liability, for a consideration.

Letters of administration to executors testamentary may at any time be revoked or annulled by the decree of the Supreme or any Circuit Court; and similarly letters of administration granted to executors dative may be revoked or annulled by the Master of the Supreme Court, on production of any valid deed showing that others are legally capable and qualified and practically entitled to the appointments.

The Master exercises no supervision over the estates of deceased natives married according to native rites. These are administered according to native custom, and usually without difficulty or delay. Where a native has been first married by a heathen rite and afterwards contracts a legal marriage, the children of the second marriage alone inherit.

I recently had a case where a native residing at Korsten, a registered voter and property owner, died intestate. The surviving spouse and her children claimed inheritance, and asked for the administering of the estate in the manner herein described. A son of the deceased by a first and heathen wife asserted himself as the heir, and claimed that the estate should be administered under native law. Several meetings had to be held before the Resident Magistrate, the marriage certificate of the surviving spouse obtained, the voter's ticket of the deceased produced,

the voters' roll with his name thereon, and sundry affidavits made and sworn to before matters were in sufficient order to permit of the Master granting letters of administration.

I mentioned earlier in this paper that any creditor in the estate of a deceased person is at liberty to apply to the Master for the appointment of an executor. You can see the necessity for this, as until a responsible person is in charge of the deceased's affairs, and one in whom the estate is vested, the creditor has little chance of having his claim settled. There may be a full banking account—not a very usual occurrence, I must admit—and the creditor urgently in need of money—a much commoner state of affairs—but the account cannot be operated upon, or the creditor paid, until the usual course of appointing an executor is gone through.

A fact I have omitted to state is that the estate of a deceased person can be made insolvent in the usual way when it appears that the assets will not suffice to discharge the liabilities.

Now, presuming you are interested in, say, the intestate estate of John Henry Blank, a farmer in the district of Uitenhage, and that all the preliminaries have been complied with to the satisfaction of those concerned. The death notice and the inventory, both in duplicate, have been filed. A meeting of next-of-kin has been held, and you have been nominated executor dative. You have paid the necessary fees, purchased the form of appointment, obtained the surety bond properly filled in, forwarded the whole to the Master with your written acceptance of the trust, and, finally, obtained your appointment. At once the estate becomes vested in you, and you proceed to advertise the fact in the *Government Gazette*, calling upon the creditors to present their claims and the debtors to pay all amounts owing. You are compelled to allow not less than six weeks for this purpose, and not more than four calendar months, whichever in the particular case you may deem proper. Usually the period is fixed at six weeks.

During this period the execution of a judgment previously obtained against the deceased is stayed, and even after the expiration of the six weeks, and within six months from the date of your appointment, execution on a judgment can only be obtained on an order from the Supreme Court or some Judge thereof.

After the expiration of the period notified in the *Gazette* you proceed to realise the assets, and to rank, according to their legal order of preference, all the claims lodged with you. Any claims not lodged within this time, or prior to your paying out the creditors and heirs, even though such in the ordinary way would have ranked as preferent, cannot be taken cognisance of, and no responsibility attaches to you in regard to same.

Should there be filed with you a claim of a doubtful

nature, one of the validity of which you are uncertain, you are at liberty, under Section 9 of Act 27 of 1895, to call upon such creditor to furnish you with a solemn declaration substantiating his claim. Failing this you need not recognise the claim, and should the creditor concerned take the matter into Court and obtain judgment against you, the fact that he refused you the declaration asked for will probably result in his having, by order of the Court, to pay his own costs.

The Administration charges, Funeral expenses, Master's fees, and Executor's commission are preferent charges on the assets of the estate. After these rank Mortgages, Rents, Bills, and Open Accounts.

The residue of the estate is divided amongst the next-of-kin; the surviving spouse receives one-half, the remaining one-half being divided in equal portions among the children, whether majors or minors.

The children of a lineal descendant, already deceased, take the share of that heir. If there are no lineal descendants then the parents of the deceased, if both alive, take the estate in equal shares.

If one parent is deceased and there are no children, the surviving parent takes half the estate, and the other half goes to brothers and sisters in equal shares.

If there are no children, and no brothers or sisters, the surviving parent takes the whole estate.

If there are no children and no parents, the brothers and sisters inherit in equal shares.

In this country it is a saying among the legal fraternity that "a woman cannot make a bastard" hence illegitimate children succeed their mother equally with those who are born in wedlock, and, on the other hand, mothers succeed their illegitimate offspring.

Succession Duty is payable to the Government on the net value of every succession according to the following rates:—

The surviving spouse pays nothing.

Children and grandchildren, and parents and grandparents of the deceased pay 1 per cent.

Brothers and sisters 2 per cent.

Nephews and neices, and their lineal descendants 3 per cent.

All other successors 5 per cent.

Exemption from succession duty may be claimed in certain cases, as, for instance, where the total amount of the inheritance received by any person does not amount to £100.

A son or daughter does not pay duty on any sum under £100.

No other successor is liable to pay duty on a succession of less value than £20.

This duty is deducted from the heirs' portions and paid to the Master through the Civil Commissioner. The claims of unrepresented minors, absent heirs, and of lunatics, are also remitted to the Master through the Civil Commissioner

Within six months you are required to file with the Master, through a Cape Town attorney, a full and true Liquidation and Administration Account, in duplicate, with all vouchers, &c., otherwise you are liable to forfeit your commission. If you fail to do this within six months and before twelve months have expired, any heir or other person interested may summon you before the Supreme Court. At the expiration of twelve months from the date of your appointment the Master himself may move in this direction, and any costs incurred by him in bringing an executor to the point of rendering an account, are payable by the said executor.

As a practical illustration of the form adopted in Executorship Accounts, I have placed before you a Liquidation and Distribution Account, which I will now go through with you very briefly.

Let us begin with the "Assets" or "Credit" side of the account.

Here you have first an amount of £280 13s. 1d. This represents the actual sum to the credit of the deceased in the bank at the date of his death. You are required to furnish the Master with a certificate from the manager of the bank authenticating this amount.

Then you have Movables £780. This figure is given on an appraisalment made by a sworn appraiser. On the inventory these may have been shown as of a value of £650, but inasmuch as all the items agree, and there was quite evidently no fraudulent purpose in stating the lesser figure, no difficulty will be raised in connection herewith.

Sworn appraisalments are also necessary for the landed property unsold. This may have appeared on the inventory as worth, in round figures, £10,000, but the Master takes the sworn appraisalment, though in so doing he loses somewhat in succession duty.

Mortgages.—No proof of the existence of these need be given, as the Master usually accepts the existence of these without question. Further, he can always refer to the Deeds Office and verify same. Suppose, however, that Camson's bond is actually for £200, and that he has, under the terms of the bond, paid off £50, it is as well that this should be stated. Should there be any interest due unpaid on these mortgages at time of decease, the exact amount should be collected and credited here.

The only asset actually realised in this estate is a property sold for £4,000. The heirs agreed to the sale of this so as to provide the minor's portion, and to secure some ready cash to increase the stock, and generally to improve the farm. If sold by public auction, the conditions of sale must be furnished; if sold by private treaty, a copy of the agreement of purchase must be filed.

The shares, though actually costing, so far, £120, are declared by a broker, whose valuation the Master requires,

to be only of the market value of £100, and at this figure they are shown.

This completes the assets, the total value of which are £14,890 13s. 1d.

Now take the other side:—

- (1) Stamps on Inventory, £7 10s.—This is at the rate of 3s. for the first £100, and 1s. for every succeeding £100 or part thereof. Revenue stamps of this value are attached to the original inventory. Though the value on the inventory filed and the value on the account may differ, you neither pay out nor receive a refund, should the one be less or more than the other.
- (2) Stamps Surety Bond, 7s.—This is a fixed charge.
- (3) Letters of Administration, £1.—The estate being over £40 in value, this charge is as given.
- (4) This may be the attorney's charge for doing the necessary work in this connection.
- (5) This is the cost of publishing the notice to creditors and debtors previously referred to herein.
- (6) and (7) are charges for the appraisements shown on the other side of the account.

(All the foregoing are first charges on the estate.)

- (8) Bond and Interest.—The Master will require a certificate from the holder of the bond setting forth the date, the amount, and the property specially hypothecated. He will also require the bond-holder's receipt for interest, £60 10s. This was the actual amount due at date of death, but it may not have been paid till later, and then included in a larger payment. In this case the certificate will state accordingly.
- (9) Sundry Creditors.—The first of these is preferent, the second not.
- (10) Executor's Commission.—This is made up thus:—

5 per cent. on Cash found	
in the Bank	£280 13 1
5 per cent. on Movables ..	780 0 0
	£1,060 13 1
2½ per cent on first £1,000 of Immovables.	
1½ per cent. on the balance of the assets.	

- (11) Master's Fees.—1s. in the £ on the total of the executor's commission, and for filing the account 3s.
- (12) Cape Town attorney's fee of £1 is allowed for presenting the account. Should you make this £1 1s. the probabilities are the account will be returned for alteration to £1.
- (13) The Distribution Account follows and is self-explanatory. The surviving spouse takes half and pays no succession duty. The lineal descendants divide the other half, and pay 1 per cent. succession duty.

A special form of Succession Duty Account is provided, and the amount is paid to the Civil Commissioner, who is instructed by the Master to receive same.

The minor's portion is also paid in the same way.

To your account you attach all receipts possible; also the acquittances of the heirs with their approval of the account.

You render the account within six months. In due course same is accepted and filed, and you are relieved of your responsibilities.

In this case the portions of the mother and the two major

heirs are not actually realised and paid out. The three enter into a deed of partnership, thereby obviating the breaking up of the estate, and the landed property is accordingly transferred into the names of the three, or, it may be, only into the name of the surviving spouse, who gives bonds to the two majors to the value of their respective shares.

ACCOUNT of the LIQUIDATION and DISTRIBUTION of the INTERSTATE ESTATE of the late JOHN HENRY BLANK, Danby,
District of Uitenhage, by the undersigned Executor Dative duly appointed as such by Letters of Administration
dated the 2nd June 1906.

	£	s	d	£	s	d		£	s	d	£	s	d
To Stamps on Inventory	7	10	0				By Cash found in the Standard Bank ..				280	13	1
Do. Security Bond	0	7	0				■ Movables, as per Sworn Appraisalment—						
Letters of Administration	1	0	0				Household Furniture	250	0	0			
John Smith & Co.—Drawing Death Notice							Farm Implements and Machinery ..	320	0	0			
and Inventory in Duplicate	1	11	6				2 Horses, each £15	30	0	0			
Government Gazette—Advertising ..	0	12	0				18 Donkeys, each £5	90	0	0			
R. Robinson—Appraisalment Movables ..	2	2	0				10 Cattle, each £8	80	0	0			
P. Schultz—Appraisalment Immoveables ..	2	2	0				Poultry, &c.	10	0	0			
				15	4	6					780	0	0
■ Board of Executors—							■ Immovable Property, as Appraisalment—						
Bond	1,200	0	0				Farm, "Danby," with Buildings ..	8,000	0	0			
Interest	60	10	0	1,260	10	0	House, Cannon Hill, Uitenhage ..	880	0	0			
							One-third Share in Farm, Zwerveld ..	500	0	0			
■ Paid Sundry Creditors—											9,380	0	0
L. R. Bond—Funeral Expenses ..	21	10	0				■ Mortgages—						
J. Jackson—Goods	18	5	0	39	15	0	J. R. Jones	200	0	0			
							M. V. Camson	150	0	0			
■ Executor's Commission—											350	0	0
5% on £1,060 13s. 1d.	53	0	7				■ Sale of Property in Main Street, P.E., as						
2½% on £1,000	25	0	0				per Conditions of Sale herewith ..				4,000	0	0
1½% on £12,830	192	9	0	270	9	7							
							■ 300 Shares in Sydenham Land Co.—8s.				100	0	0
■ Master's Fees—							per share paid up—as per Valuation ..						
1s. in £ on £270 9s. 7d.	13	11	0										
For Filing this Account	0	3	0	13	14	0							
■ Capetown Attorney presenting this Ac-													
count													
Thus leaving a balance of £13,290, one-													
half of which is awarded to the surviv-													
ing spouse, Amelia Blank (born Wilson),													
by virtue of the community of property													
existing between her and deceased ..	6,645	0	0										
And the other half, which is divided													
equally among children of deceased, as													
follows—													
Charles Blank (Son, major) £2,215 0 0													
Less Succession Duty	22	3	0										
				2,192	17	0							
Mary Vauton (born Blank)													
(Daughter, major)	2,215	0	0										
Less Succession Duty	22	3	0										
				2,192	17	0							
Janet Blank (Daughter,													
minor)	2,215	0	0										
Less Succession Duty	22	3	0										
				2,192	17	0							
Succession Duty paid to Master ..	66	9	0										
				13,290	0	0							
				£14,890	13	1					£14,890	13	1

I declare the foregoing to be a true and correct Liquidation and Distribution Account, and that there are no further Assets to be realised.

Port Elizabeth, 1st November 1906.

JOHN PETERS, Executor Dative.

We, the undersigned, Major Heirs in the Estate of the late John Henry Blank, have examined and do hereby approve the above Account.

CHARLES BLANK.
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MARY VAUTON.

Balance Sheets.

(From *The Times* Financial and Commercial Supplement).

To the average investor the Balance Sheet of a company in which he is interested generally appears to be a miracle of diabolical ingenuity, specially designed to bewilder the inquirer and to obstruct any desire that he may entertain to arrive at a correct conclusion concerning the position of property which it ostensibly purports to make clear. The first stumbling-block is the position of the capital among the liabilities on the debtor side, for, as the puzzled observer is apt to ask, "If the company does not possess 'its own capital, what does it possess? And if the capital 'is a possession, it is obviously an asset, and ought to be 'on the other side of the account.'" Astonishment grows when it is discovered that the year's profit is also ranked among the liabilities, for here again, "if the company has 'not got its profit, how can it be a profit, and if it has 'got it in what sense is it a liability, and to whom can it 'possibly be owed?" On the assets' side there are equally puzzling pitfalls in many of the Balance Sheets issued, especially by companies that are at a youthful stage of development, or have been badly financed or unsuccessfully managed. Preliminary expenses or expenditure on advertising are items which it is difficult to construe into a realisable possession, and astonishment deepens into incredulous disgust when it happens that the assets conclude with the display of a debit balance from Profit and Loss Account. At this point our inquiring friend is apt to explode and become vituperatively eloquent—for "how 'on earth can a realised loss on trading by any trick of 'casuistical Jiu-jitsu be distorted into an asset of the company? The thing is wholly preposterous. At that rate 'a company would only have to go on losing a few 'millions every year to pile up assets that would burst the 'vaults of the Bank of England. There you are; you 'can't get away from that; it's an unanswerable *reductio 'ad absurdum*." And so the Balance Sheet falls into the maw of that final and inexorable auditor the waste-paper basket, and the investor decides that Balance Sheets are a mere sophistical trick of the trade, on a par with the dog Latin in which a doctor veils his prescriptions, so that the patient cannot discover what he is swallowing, or the impossible jargon with which legal documents obscure the complicated tangle in which they are involving some simple question of a marriage settlement, so that the next generation of lawyers may grow fat on its unravelling.

The Point of View.

These questionings, which bewilder the uninstructed critic on the contemplation of a Balance Sheet, are based to a great extent on sound common sense. As we shall see later there is much to be said for the contention that

assets such as preliminary expenses, advertising, and loss on trading have little right to appear as such. But the misconception which makes it difficult for the investor to see why a company should be debited with the amount of its capital and profits earned arises out of a misunderstanding. It is all a matter of the point of view. The shareholder is apt to regard a Balance Sheet from the point of view of the shareholders; he considers that the capital belongs to himself and his fellow-shareholders, and is therefore puzzled to see it stated as a liability. But the Balance Sheet is really an exposition drawn up from the point of view of the company; the company has received the capital from the shareholders and owes it to them—that is to say, has to account to them for it at any time, and return it to them, if it can, if liquidation is decided on. It makes the matter clearer if we express it by saying that a Balance Sheet is not exactly a statement of liabilities and assets, but of sums received and sums expended, not in the ordinary course of trading, but on Capital Account in its widest sense, including the permanent capital of the company, any profits permanently set aside to reserve, and temporary loans made in the course of business, with entries on the other side showing the manner in which these sums have been invested permanently or for the time being. Mr. Francis W. Pixley, F.C.A., in a paper recently read to the Glasgow Chartered Accountants Students' Society, put the matter as follows:

"Balance Sheets of commercial concerns are, with a few 'special exceptions—such as those of banks, insurance 'companies, discount houses, and a certain number of 'financial institutions and trading concerns—not statements which show in simple form the actual liabilities 'and actual assets of the concern. The expression 'Balance Sheet' has a technical meaning quite apart 'from the popular notion that it is simply a statement of 'assets and liabilities, although they are very frequently 'identical.

"This mistaken notion is probably due to the fact that it 'was formerly the practice to place the words 'liabilities' 'and 'assets' at the top of each Balance Sheet in place 'of the ordinary abbreviations for the words 'debtor' and 'creditor,' a mischievous practice, which even at the 'present time has not altogether disappeared."

If for the words "debtor" and "creditor" we substitute, as suggested, the less cryptic symbols sums received and sums spent and in hand, we shall have arrived at a clearer conception of the meaning of a Balance Sheet, and many of the bewilderments that puzzle the investor will have vanished. And since, if the company is carried on at a profit, it will follow that the sums spent and in hand will exceed the sums received, the debtor side will be natural.

less than the creditor, and the gap will be filled by the trading profit, or balance from the Profit and Loss Account, awaiting division or disposal.

A Reservation.

But a very important reservation must be noted. The sums spent must not only have been spent but be capable of realisation if the Balance Sheet is to be anything more than a record of what has been done without any reference to the actual solvency of the company. It is quite possible for a company to show year by year a statement which would lead the unwary to suppose that its capital was intact, merely because it just gave the simple story of sums received and sums spent and in hand, treating the question of the realisability of the assets—that is, the question whether the sums spent could at any time be recovered by resale of the items purchased—as a negligible quantity. An instructive example is presented by the last Balance Sheet issued by the London Gigantic Wheel Company, Lim. The capital of this company was represented chiefly by the Great Wheel, which stood at nearly £30,000 on the credit side of the Balance Sheet. An investor who had looked at this document with a view to a purchase of shares, without applying the realisation test to the assets, might have been led to suppose that the shares were worth something like their par value. There was the capital represented by the wheel, and as long as the wheel went round, who was to say what its value as a going concern really was? And then, when the directors found it difficult to renew their lease at Earl's Court on terms which they considered reasonable, they decided that the wheel should go to the scrap-heap, and sold it at what they state in their report to be a "fair price." And the fair price for an item which had figured in the last Balance Sheet at £29,263 6s. 11d. was £300.

"As a Going Concern."

"Whoso is wise will ponder these things," as the Psalmist hath it, for the history of the value of the Great Wheel is an instructive example of what would happen in many Balance Sheets if the wheels suddenly ceased to go round. It is an extreme example, of course, because the Great Wheel was the only trading asset of the company, which from the nature of the case was bound to have all its eggs in one basket; but otherwise it was quite commonplace, and only shows how great a difference a mere accident of position may make to the value of a thing. It is true that the wheel was rather *vieux jeu*, and had lost the attraction of novelty as an entertainment; but an enterprising impresario might yet have done much to revive its popularity by aeroplane races at the top, or, still better, by subsidising somebody to commit suicide from the summit. The structure, for its purpose, was as good as new, and no doubt the directors thought themselves justified

in leaving it in the Balance Sheet at £30,000, until the "abhorred shears" of fact snipped off the last two noughts. And it would appear that they have high accounting authority on their side. Mr. Pixley, in the paper referred to above, delivered himself of the following comfortable doctrine:—

"It must not, however, be supposed that I am suggesting that a financial expert should as a rule criticise a Balance Sheet from the point of view of what the assets are likely to realise should the concern be wound up; as I have already stated, the method of criticism of a Balance Sheet by any one must depend entirely upon what use is going to be made of such criticism when completed. All that I am suggesting here is that, in the consideration of the nature of assets of the description such as are now under review, it must be borne in mind that there is a great difference from the point of view of value to be attached to the assets of what is known as a 'going concern' to those of a similar concern about to be broken up. In the former case, of course, the sale price, or the breaking-up price, must not be taken into consideration, for if looked at from that point of view the Balance Sheet of scarcely any prosperous concern in Great Britain would show it to be solvent."

The Scrap-Heap Price.

The last sentence quoted from Mr. Pixley is a little startling, and with all deference to his knowledge and experience we cannot help thinking that it overstates the case a little. It certainly cannot be applied to banks, insurance companies, and similar concerns, whose assets ought to consist of securities, mortgages, loans, &c., the value of which has nothing to do with the prosecution of the business that holds them. And in so far as it is true of the fixed plant, stock in trade, &c., of manufacturing and trading concerns, it goes far to constitute the essential difference which makes their securities to some extent speculative. This difference is a matter which every board which desires that its company should be well financed in addition to being well managed ought to endeavour to abolish; and this they can only do by writing down any doubtful assets to a figure that they would realise if thrown on the scrap-heap instead of leaving them on the "going concern" valuation. Such a system would necessarily exclude such items as sums spent on advertising among assets, for they could by no most elastic stretch of imagination be conceived of as realisable. Mr. Pixley is again against us, for he speaks of "items which are absolutely not realisable under any circumstances whatever, but so long as the commercial concern carries on business it may be quite proper to include such items on the creditor side of the Balance Sheet." This, no doubt, is good accounting, but we submit that the inclusion of items

unrealisable under any circumstances whatever among a company's assets is hardly good finance. Investors will, therefore, be well advised in studying Balance Sheets to give special attention to those items which depend for their value on the difference between the "going concern" valuation and the scrap-heap price. Stock in trade, plant, and machinery are items that should be carefully watched, and if a comparison of Balance Sheets for a number of years shows that they tend to swell more rapidly than the rate of net profit, it will be well to remember that terrible example of the Great Wheel.

A New View of Goodwill.

Goodwill is a matter that has been dealt with frequently in these columns, and we need now only point out that its scrap-heap price is *nil*. But we cannot refrain from quoting a remarkable passage from Mr. Pixley on this point.

"Now, in nearly every case the price paid by a company 'for the goodwill of a commercial concern is very much higher than is usually paid to the vendors when the business is sold to private persons. This is, of course, only natural, as in the case of a sale to private persons the purchasers, as a rule, intend in the future to devote the whole of their time and energies to the business, and consequently expect to not merely receive a dividend or interest on the investment of their capital, which shareholders in a company have only the right to expect. Partners in a private concern expect, in addition, proper remuneration for the time and ability they devote to the management of the concern in which they embark their capital."

Surely this is a most remarkable contention, that a higher price for goodwill should be paid by companies, because shareholders have only a right to dividends or interest; partners in private firms, it is true, give time and energy to the business, but joint-stock businesses do not conduct themselves, and the fees of directors and managers have to be provided before dividends are available. But the frank admission by an eminent accountant that there are two prices for a goodwill, one for a company and one for a firm, and that the company's is naturally "very much higher," throws light on many pages in the history of joint-stock finance.

Personal.

MESSRS. EDMONDS & BOUTON, Certified Public Accountants, of 56-58 Pine Street, New York, and Baltimore, Md., announce that they have admitted into partnership Mr. GARRY BROWN, C.P.A. (Maryland), and Mr. W. P. WHITE, of New York. The firm name will remain unchanged.

Secret Commissions and Bribery Prevention League.

(Temporary Address) 58 Coleman Street,

London, E.C.,

December 1906.

On the first day of January next the Prevention of Corruption Act, 1906, comes into force. This Act sets out that:

(1) "If any agent corruptly accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do, or for having after the passing of this Act done or forborne to do, any Act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

If any person corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having after the passing of this Act done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

If any person knowingly gives to any agent, or if any agent knowingly uses with intent to deceive his principal, any receipt, account, or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead the principal; he shall be guilty of a misdemeanour, and shall be liable on conviction on indictment to imprisonment, with or without hard labour, for a term not exceeding two years, or to a fine not exceeding five hundred pounds, or to both such imprisonment and such fine, or on summary conviction to imprisonment, with or without hard labour, for a term not exceeding four months, or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine.

(2) For the purposes of this Act the expression 'consideration' includes valuable consideration of any kind; the expression 'agent' includes any person employed by or acting for another; and the expression 'principal' includes an employer.

(3) A person serving under the Crown or under any corporation or any municipal, borough, county, or

district council, or any board of guardians, is an agent within the meaning of this Act."

The only considerations which should regulate legitimate commerce are price, quality, and delivery. As things are, no manufacturer or merchant can be certain that his goods will in every case receive the consideration which their quality and price merit, or that a prohibition will not be placed upon them, unless he gives a commission or a valuable consideration of some sort to the agents or employees of his customers.

On the other hand, no purchaser can be certain that the goods he is buying are being procured on a basis of price and merit alone, because his agents or servants may be obtaining commissions, gifts or considerations from the suppliers, and consequently are forbearing to show favour to some other article which may be better in quality and cheaper in price, but which is prohibited by them because it carries no commission. In any case, the cost of the article to the purchaser must be increased by the amount of the commissions paid. These corrupt principles, which are repugnant to all honest people, have unfortunately been found to permeate in a greater or less degree practically all trades and professions.* They affect all employers and they are prejudicial to all purchasers whether these be corporate bodies, companies, clubs, or private individuals.

The London Chamber of Commerce, which was incorporated for the purpose of guarding the commerce of the principal city of the world, recognised that in many cases fair trading was being fettered by corrupt considerations and promoted the *Prevention of Corruption Act* which, largely owing to the protracted efforts of Sir Edward Fry, the late Lord Russell of Killowen, Lord Alverstone, Lord Halsbury, and others, has duly become law. The Secret Commissions and Bribery Prevention League has been formed with the support of the leading members of the Secret Commissions Committee of the London Chamber of Commerce for the purpose of taking active measures for the enforcement of the Act. With this object in view the League will take every legitimate means in its power to combat the evil of secret commissions and bribery, and for this purpose the following steps will, *inter alia*, be taken :—

(1) To hold public meetings at the outset, to bring the subject prominently before public attention.

(2) To create a public opinion adverse to corrupt trading in any form ; and to let it be widely known that the giving or receiving of a corrupt commission or bribe is as dishonest as robbing a till, or embezzlement, and is punishable in exactly the same way.

(3) To educate those people who are most susceptible to temptation, and to advise all and sundry of the penalties of breaking the law.

(4) To secure the support and co-operation of the Press.

(5) To obtain support for candidates at parliamentary and municipal elections who are pledged to support the objects of the League.

(6) To publish and distribute literature setting forth the results of trials and convictions under the Act, and judgments or decisions bearing upon the matter.

(7) To obtain counsel's opinion, if necessary, on any obscure point which may be raised in connection with the Act ; and, at the discretion of the Council, to advise members of the League whether cases which they may bring before it are breaches of the Act, and, if so, whether a prosecution should be undertaken.

(8) To inquire into cases of the giving or accepting of secret commissions, or of blackmail, bribery, corruption, and, if thought advisable, to prosecute under the Act.

(9) To draw up and publish at a nominal figure extracts from the Act, setting forth the offences and penalties, and to supply these to members for the purposes of exhibition in some conspicuous place on their premises.

For the temporary purpose of founding and establishing the League a small working Committee has been formed composed as follows, viz. :—

The Chairman of the Council of the London Chamber of Commerce.

Right Hon. Earl Fortescue (Chairman of The Canteen and Mess Co-operative Society, Lim.).

Mr. G. Andrews (Messrs. Smeed, Dean & Co., Portland Cement and Brick Manufacturers).

Mr. R. L. Barclay (Barclay & Co., Lim., Bankers).

*Mr. J. W. Hope (John Knight & Sons, Lim., Soap Manufacturers).

*Mr. David Howard (Howards & Sons, Lim., Manufacturing Chemists).

*Mr. Edgar Howell (Chairman of John Howell & Co., Lim., Warehousemen).

Mr. W. C. Jackson (Messrs. Jackson, Pixley & Co., Chartered Accountants).

*Mr. A. B. Lambert (Messrs. I. & R. Morley, Hosiery Warehousemen, &c.).

Mr. K. B. Murray (Secretary, London Chamber of Commerce).

* See Report of Committee of London Chamber of Commerce.

*Mr. F. A. Oetzmann (Messrs. Oetzmann & Co., House Furnishers).

*Mr. J. Innes Rogers (Joseph Travers & Sons, Lim., Wholesale Produce and Wine Merchants).

Mr. C. Hay Walker (Public Works Contractor).

Mr. Hal Williams (Messrs. Hal Williams & Bridges, Consulting Engineers).

Of whom those marked thus * are on the Council or the Committees of the London Chamber of Commerce.

The design of the League is that its operations shall be governed by a large Council representative of all the principal occupations of the country, and of chambers of commerce, trade associations, and the institutes of all professions, and administered by a Committee of workable size selected from the Council. The *interim* Committee, as such, will then resign its functions.

The annual subscriptions to its funds will be as follows:—

For affiliation to the League by any public body, trade association, institute, &c. ..	£5	5	0
For members of any such body	1	1	0
For any limited or other company	3	3	0
For any firm not being members of a trade association or institute	2	2	0
For any person, ditto, ditto	1	11	6

In settling the constitution and rules of the League, arrangements will be made to limit the liability of the subscribers to the amount of their subscriptions.

It will be a recommendation to the Council, when formed, that a quarterly (or other periodical) Gazette be published, setting forth more fully the scope and the operations of the League; and the wide distribution of such paper, together with other printed matter, designed to bring the Act and the action taken under its provisions to the knowledge of all classes of the community.

It must be remembered that this is a national matter; and it is hoped that all people interested in maintaining the commerce of the United Kingdom pure and unsullied will become members of the League and give it their hearty co-operation and support.

By Order,

A. E. W. GWYN,

Secretary, *pro. tem.*

Failures and Bills of Sale in England and Wales.

ACCORDING to *Kemp's Mercantile Gazette*, the total number of commercial failures recorded in England and Wales during the week ending Friday, Dec. 21st, was 158, viz.:—

New Bankruptcy Proceedings published in the *London Gazette*, 87; Deeds of Arrangement registered, 71. The respective numbers in the corresponding week of last year were: Bankruptcies, 90; Deeds of Arrangement, 93—total, 183; being a decrease of 25. The total number of commercial failures recorded during the 51 weeks of the present year is 8,229; the total number recorded in the corresponding 51 weeks of last year was 8,870, showing a decrease of 641.

The number of Bills of Sale, including Re-registrations, filed in England and Wales for the week ending Friday, Dec. 21st, was 187. The number in the corresponding week of last year was 215, showing a decrease of 28. The total number filed during the 51 weeks of the present year is 7,560; the total number filed in the corresponding 51 weeks of last year was 8,330, showing a decrease of 770.

Debentures.

The Mortgages and Charges registered by limited companies in England and Wales during the week ending Friday, Dec. 21st, amounted to £1,431,375, by way of addition to £2,044,931, previously issued by the same companies. The amount registered in the corresponding week of last year was £662,754, showing an increase of £768,621. The total amount registered during the 51 weeks of the present year was £77,275,419 (in addition to the issues in previous years by the same companies), as compared with £76,652,185 for the corresponding 51 weeks in 1905, showing an increase of £623,234.

The Profession in Scotland.

The Glasgow Chartered Accountants Students' Society.

Special Points arising in the Audit of the first Balance Sheet of a Limited Company formed to acquire a Going Business.

By MATTHEW MITCHELL, C.A.

A PAPER read to the Glasgow Chartered Accountants Students' Society on 22nd November 1906, Mr. David Strathie, C.A., in the chair.

In directing your attention for a little this evening to the special points arising in the audit of the first Balance Sheet of a limited company formed to acquire a going business,

I shall, for the sake of convenience, take the case of a company which has contracted directly with the owners of the business, and which has obtained money from the public on shares and debentures by the issue of a prospectus.

In order to properly understand the special points likely to arise in the first audit, one must be acquainted with the procedure involved in the conversion of a partnership at common law into a company incorporated under the Companies Acts, 1862-1900, with limited liability, and I propose, in the first instance, to deal with this aspect of the subject, explaining as I proceed the duties of the auditor thereanent.

In ordinary circumstances a Minute of Agreement is entered into between the partners or owners of the business, known in this connection as the vendors on the one part, and a trustee on behalf of the proposed limited company on the other.

Under this agreement the vendors undertake to sell, and the trustee on behalf of the intended company undertakes to purchase, as and when the company is incorporated, the business of the vendors as a going concern, with the goodwill and assets of every description belonging thereto.

The terms upon which the transfer is to take place are, of course, clearly defined; the assets to be transferred are set out in more or less detail; the price which the company is to pay for the business and assets, the manner in which the same is to be paid, and the extent to which the company is to assume liability for the expenses of forming the company, must be regarded as indispensable conditions; and the internal arrangements which may be considered necessary for preserving the continuity of the business, such as binding the vendors to give their services as managers or directors for a period of years, are very frequently embodied in such agreements. On the other hand, the company may be taken bound to discharge the liabilities of the vendors, in which case it is usual to set some limit to the amount or to provide for an accounting; or the vendors may agree to discharge the liabilities, or a part thereof, themselves out of the purchase-price. In either event the effect is practically the same. If the company is to discharge the liabilities a correspondingly smaller price will be paid; if the vendors, a correspondingly larger.

The plan which is followed in some instances of having the terms of this agreement adjusted by two solicitors—one representing the vendors, and the other representing the company—might, I think, with advantage be more generally adopted.

The trustee for the intended company usually acts in a purely nominal capacity, and is stated to incur no personal responsibility for the due fulfilment of the contract; which

obviously is not binding on the company until formally adopted on its behalf after incorporation, when the trustee is not uncommonly discharged by separate minute.

This agreement is one of the most important documents with which the auditor has to deal in the first audit; it forms the basis of the opening entries in the books of the company; it vouches the price payable to the vendors, and the terms of payment; it fixes the date at which the business is to be taken over, with all that follows in the way of apportionment thereon; it defines the rights and liability of the company as regards current contracts at the date of the transfer—all of which are matters which intimately concern the auditor. The auditor is bound to see that the company obtains possession of all the assets and rights of every description to which it is entitled under this agreement; and, on the other hand, that it is not saddled with liabilities, obligations, or expenses which it has not specifically undertaken to discharge.

Before this agreement can be adopted on behalf of the company, the company itself must be brought into being, and the formalities necessary for this object may now be referred to.

Under the Companies Act, 1862, it is provided (Section 6): "Any seven or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requisitions of this Act in respect of registration, form an incorporated company with or without limited liability." And (Section 8): "Where a company is formed on the principle of having the liability of its members limited to the amount unpaid on their shares, the memorandum of association shall contain the following things:—

- "(1) The name of the proposed company, with the addition of the word 'limited' as the last word in such name.
- "(2) The part of the United Kingdom, whether England, Scotland, or Ireland, in which the registered office of the company is proposed to be situate.
- "(3) The objects for which the proposed company is to be established.
- "(4) A declaration that the liability of the members is limited.
- "(5) The amount of capital with which the company proposes to be registered, divided into shares of a certain fixed amount."

Mr. Buckley says: "The memorandum must specify or define the objects for which the proposed company is to be established. It is not a compliance with the statute to state the object to be to carry on any business which the company may think profitable, for that defines nothing."

One of the first "objects" for which the company is to be established to be mentioned in the memorandum would be to acquire and take over the business, property, assets, and goodwill of the vendors, and for that purpose to execute and carry out, with or without modification, the provisional agreement to which I have just referred.

The auditor must note the exact terms upon which the provisional agreement has been adopted by the company, as, if conditions are introduced into the adoptive agreement which impose a heavier burden upon the company than that disclosed in the prospectus, the matter must be brought to the knowledge of the shareholders.

Under Section 14 of the Act of 1862 it is further provided that the memorandum of association *may*, in the case of a company limited by shares, be accompanied when registered by articles of association signed by the subscribers to the memorandum of association, and prescribing such regulations for the company as the subscribers to the memorandum deem expedient, and they may adopt all or any of the provisions contained in the table marked "A" in the first schedule to the Act.

This Table "A," I may explain, is now superseded by a new Table A, which by order of the Board of Trade came into force on 1st October 1906. The new regulations, however, are not retrospective, and consequently do not apply to companies registered before 1st October 1906.

While it is optional under this clause in the case of companies limited by shares whether the memorandum be accompanied by articles or not, it is provided in Section 15 that the regulations contained in Table "A" shall, so far as the same are applicable, be deemed to be the regulations of the company in the same manner and to the same extent as if they had been inserted in articles of association and the articles had been duly registered.

The practical effect of this is that all companies registered without articles of association are bound by the regulations of Table "A," a point which is very apt to be overlooked.

The memorandum and articles of association of a company are highly important documents from the point of view of the audit, the former defining the capital and objects of the company, and the latter prescribing the working regulations.

It is, of course, necessary for the auditor to see that the capital, as stated in the memorandum and known as the authorised capital, is not exceeded; and although it has not, so far as I am aware, been decided to be within the scope of his duty, I think it is well that the auditor should make sure that all the transactions of the company are within the scope of its objects. Thus, if a company which had no power to do so under its memorandum underwrote

an issue of shares in another company which resulted in a loss, it would be the duty of the auditor to call attention to the matter. In the same way, if a company without authority had lent money to customers or others, and sustained losses thereby, the matter would have to be reported.

There can be no doubt at all as to the duty of the auditor to see the articles of association and to comply with their provisions. In the *Kingston Cotton Mills Company* case, Lord Justice Lindley said: "Auditors are in my opinion bound to see what exceptional duties, if any, are cast upon them by the articles of the company whose accounts they are called upon to audit. Ignorance of the articles and of exceptional duties imposed by them would not afford any legal justification for not observing them." And Mr. Palmer says "that the provisions as to audit contained in Sections 21-23 of the Act of 1900 are supplemental to and not in substitution of provisions as to audit contained in articles of association or regulations of a company, and accordingly that the Act of 1900 does not relieve an auditor from the necessity of complying with such provisions, even although the latter impose obligations beyond those imposed by the Act of 1900. In so far, however, as the earlier provisions are inconsistent with the Act of 1900, the Act must, of course, prevail."

The provisions of the articles relating to the powers of directors are important from the auditor's point of view; and I am of opinion the auditor should satisfy himself that all important acts of directors are within their powers as such, and do not require the authority of a general meeting. Any regulations as to the disqualification of directors should be noted. A common disqualification is the making of profit out of a contract with the company. The auditor should take notice of such.

Where the articles limit the borrowing powers of the company, the auditor should see that the prescribed limit is not exceeded.

The clauses dealing with Dividends, Accounts, and Audit demand, however, the most attention.

A point to notice with regard to dividends is that companies which have adopted the wording of Table "A" have no power to declare interim dividends. This defect, I observe, has been remedied in the new Table "A," which provides (Article 96): "The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company."

Before paying dividends companies are frequently bound to set aside sums to reserve, or for contingencies of various kinds, such as renewals of buildings or plant. It is the

duty of the auditor to see that any provisions in this behalf are complied with.

The articles usually give directions as to the manner in which the accounts are to be kept and submitted to the shareholders, and such directions must, of course, be followed. With regard to the submission of the accounts, Table "A" provides (Article 79) that, "Once at the least in every year the directors shall lay before the company in general meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting." And (Article 81) that, "A Balance Sheet shall be made out in every year and laid before the company in general meeting, and such Balance Sheet shall contain a summary of the property and liabilities of the company arranged under the heads appearing in the form annexed to the said table, or as near thereto as circumstances admit."

This, as everyone knows, means once in every calendar year, so that a company with this form of articles may issue a Balance Sheet at the beginning of one year and at the end of the year following, embracing a period of nearly two years. Under the new Table "A" both the Statement of Income and Expenditure and the Balance Sheet must be made up to a date not more than six months before such meeting, which is rather less elastic. In both sets of articles the Statement of Income and Expenditure requires only to be laid before the company in general meeting, but the Balance Sheet must be sent out seven days previously.

The provisions as to audit in the articles must be carefully noted by the auditor in taking up the audit of a company for the first time, and, except to the extent to which such provisions are inconsistent with the audit clauses of the Companies Act, 1900, they must be observed, even although, as I have formerly explained, they impose obligations upon the auditor beyond those imposed by the Act.

Until the Companies Act, 1900, came into force it was open to all companies, with the exception of banking companies registered after the passing of the 1879 Act, to adopt a form of articles which either expressly or impliedly excluded audit provisions; but since the passing of the 1900 Act every company registered under the Companies Acts must at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting. The Act does not say expressly that the auditor so appointed must audit the accounts, but that is clearly implied. It is thus no longer possible to exclude the audit, and any provisions in articles inconsistent with this are null and void.

The next step in the procedure is the registration of the company. It is provided under Section 17 that the memorandum of association and the articles of association, if

any, shall be delivered to the Registrar of Joint Stock Companies, who shall retain and register the same. Certain fees as provided in Table "B" fall to be paid on registration, and, on these formalities being complied with, the Registrar is directed under Section 18 to certify under his hand that the company is incorporated, and in the case of a limited company that the company is limited. The subscribers of the memorandum and articles of association, together with such other persons as may from time to time become members of the company, shall thereupon be a body corporate by the name contained in the memorandum of association, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal.

Having outlined the procedure up to the point of registration, the statutory provisions relating to the prospectus, in so far as these affect the auditor, have now to be considered.

The first reference to a prospectus occurs in the Act of 1867, which provides (Section 38): "Every prospectus of a company and every notice inviting persons to subscribe for shares in any joint-stock company shall specify the dates and the names of the parties to any contract entered into by the company, or the promoters, directors, or trustees thereof before the issue of such prospectus or notice, whether subject to adoption by the directors of the company or otherwise; and any prospectus or notice not specifying the same shall be deemed fraudulent on the part of the promoters, directors, and officers of the company knowingly issuing the same as regards any person taking shares in the company on the faith of such prospectus, unless he shall have had notice of such contract."

In practice strict compliance with this section was found in many cases to be impracticable, and it became customary for what was known as the "Waiver Clause" to be inserted in the form of application for shares. This was a clause under which an applicant for shares agreed to accept the terms of the prospectus as to contracts as sufficient compliance with this section, and abandoned any rights he might otherwise have to a full disclosure of all contracts entered into by or on behalf of the company.

The prospectus was not further affected by legislation until the 1900 Act was passed.

The provisions of this Act with regard to the prospectus which more particularly bear upon the duties of the auditor are contained in Section 10.

Sub-section (1) Every prospectus issued by or on behalf of a company must state:—

- (a) The contents of the memorandum of association, the names, descriptions, and addresses of the signa-

tories, the number of shares subscribed by them, the number of founder or management shares, and the nature and extent of the interest of the holders in the property and profits of the company.

- (d) The minimum subscription on which the directors may proceed to allotment, and the amount payable on application and allotment on each share; and in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment, and the amount actually allotted, and the amount, if any, paid on such shares.
- (e) The number and amount of shares and debentures issued or agreed to be issued as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which such shares or debentures have been issued or are proposed or intended to be issued.
- (f) The names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of publication of the prospectus, and the amount payable in cash, shares, or debentures to the vendor, and where there is more than one separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor.
- (g) The amount (if any) paid or payable as purchase-money in cash, shares, or debentures, of any such property as aforesaid, specifying the amount payable for goodwill.
- (h) The amount (if any) paid or payable as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions for any shares in the company, and the rate of any such commission.
- (i) The amount or estimated amount of preliminary expenses.
- (j) The amount paid or intended to be paid to any promoter, and the consideration for any such payment.
- (k) The dates and parties to every material contract, and a reasonable time and place at which any material contract, or a copy thereof, may be inspected, provided that this requirement shall not apply to a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company, or to any contract entered into

more than three years before the publication of the prospectus.

- (l) The names and addresses of the auditors (if any) of the company.
- (m) Full particulars of the nature and extent of the interest (if any) of every director in the promotion of, or in the property proposed to be acquired by, the company, with a statement of all sums paid, or agreed to be paid to him in cash or shares by any person, either to qualify him as a director, or otherwise, for services rendered by him in connection with the formation of the company.

It is provided that the section shall not apply to a circular or notice inviting existing members or debenture-holders of a company to subscribe for further shares or debentures, and it is further provided that certain requirements of this section shall not apply in the case of a prospectus published more than one year after the date at which the company is entitled to commence business.

The section also contains the important provision that "any conditions requiring or binding an applicant for "shares or debentures to waive compliance with any "requirement of this section, or purporting to affect him "with notice of any contract, document, or matter not "specifically referred to in the prospectus, shall be void."

The prospectus is, of course, a document which the auditor must, in the first audit of the company, carefully peruse. It is the basis of the contract between the company and the various persons who have become members on the faith of statements contained therein. The auditor must see that there is no inconsistency, in respect of any matter affecting the accounts or the audit, between the prospectus and the provisional agreement with the vendors, or between the prospectus and the regulations of the company generally. An illustration of the former would be a case in which under the prospectus the vendors were to discharge the liabilities and retain the book debts at the date of transfer, while under the agreement the liabilities and book debts were to be taken over by the company; and an illustration of the latter, the case mentioned by Professor Dicksee, in which the directors under the prospectus were not entitled to any fees unless a certain dividend were paid to the shareholders, while in the regulations of the company no such provision was contained.

I have now to direct your attention to the provisions of the Act of 1900 with regard to allotment, as these provisions also affect the auditor in the first audit of the company's accounts.

None of the earlier Acts dealt directly with the subject, and I think it will be generally conceded that the provisions of the latest Act are in the right direction.

Section 4 (1).—No allotment shall be made of any share capital of a company offered to the public for subscription, unless the following conditions have been complied with, viz. :—

- (a) The amount (if any) fixed by the memorandum of association and named in the prospectus as the minimum subscription upon which the directors may proceed to allotment; or
- (b) If no amount is so fixed and named, then the whole amount of the share capital so offered for subscription has been subscribed and the sum payable on application for the amount so fixed and named, or for the whole amount so offered for subscription, has been paid to and received by the company.

(2) The amount so fixed and named and the whole amount aforesaid shall be reckoned exclusively of any amount payable otherwise than in cash, and is in this Act referred to as the minimum subscription.

(3) The amount payable on application on each share shall not be less than 5 per cent. of the nominal value of the share.

(5) Any condition requiring or binding any applicant for shares to waive compliance with this section shall be void.

(6) This section, except Sub-section (3), shall not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription.

The provisions of Section 6 have also to be kept in view by the auditor in every case in which there is any invitation to the public to subscribe for shares.

(1) A company shall not commence any business or exercise any borrowing powers, unless—

- (a) Shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription; and
- (b) Every director of the company has paid to the company on each of the shares taken by him, and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription; and
- (c) There has been filed with the Registrar a statutory declaration by the secretary or one of the directors, in the prescribed form, that the aforesaid conditions have been complied with.

The certificate of the Registrar, it is provided, shall be conclusive evidence that the company is entitled to commence business and to exercise borrowing powers. The auditor should see this certificate.

(3) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, but on that date it shall become binding.

Where there is no invitation to the public, the section does not apply, but Section 7, which is as follows, applies to all companies.

"Whenever a company limited by shares makes any allotment of its shares, the company shall within one month thereafter file with the Registrar :—

"(a) A return of the allotments stating the number and nominal amount of the shares comprised in the allotment; the names, addresses, and descriptions of the allottees, and the amount (if any) paid or due and payable on each share; and

"(b) In the case of shares allotted in whole or in part for a consideration other than cash, a contract in writing constituting the title of the allottee to such allotment, together with any contract of sale or for services or other consideration in respect of which such allotment was made, such contracts being duly stamped, and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted."

This section repeals Section 25 of the Act of 1867, which provided that "every share in every company shall be deemed and taken to have been issued and to be held subject to the payment of the whole amount in cash, unless the same shall have been otherwise determined by a contract in writing filed with the Registrar at or before the issue of such shares."

This section has left behind it many unpleasant memories. In many instances after the company had gone into liquidation it was discovered that no contract had been filed, and the unfortunate allottees of fully-paid shares were called upon to pay them in cash to the liquidator. It is well out of the way; few or none will regret its disappearance.

The only other section of the Act of 1900 which I propose to bring under your notice is Section 8, under which provision is made for the payment of a commission to any person in consideration of his subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares in the company. This commission may, however, only be paid in the case of a company making a public issue of shares, and provided the payment of the commission and the amount or rate per cent. are respectively authorised by the articles of association and disclosed in the prospectus.

Nothing, however, in this section, it is declared, shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay.

It had long been held illegal to issue shares at a discount, for the reason, I suppose, that such discount operated as a reduction of the capital of the company in a manner not authorised by the statutes; but this section in effect permits of shares being issued at a discount, as there can be no real difference in the final result between issuing shares of £1 each at a discount of 5s., and repaying in name of commission 5s. per share on shares of £1 each to every person who applies for such shares.

I have considered it advisable to bring under your notice in some detail the sections of the statutes which, in my opinion, either bear directly upon the duties of the auditor, or any non-compliance with which would affect the constitution of the company or the validity of entries in the books or Balance Sheet, because I find from experience that students do not so fully realise the supreme importance of a thorough acquaintance with the statutory provisions affecting the duties of auditors as I think they should.

It is hardly necessary to mention that such special points as I am about to deal with as calling for attention in a first audit, or some of them, may arise also in the audit of subsequent years in cases where additional capital has been issued or additional assets acquired, or if the company decide to take over another going business. My remarks will therefore, *mutatis mutandis*, be also applicable to such cases.

The accounts opened in the books of the company giving effect to the purchase will require to be carefully examined by the auditor.

The assets taken over should be debited to the respective accounts and the total credited to the vendors. Similarly, liabilities taken over should be credited to the respective accounts, and the total debited to the vendors.

The difference between these totals will in ordinary circumstances be the price payable to the vendors for the business, and will be squared by the payment of cash or by the allotment of shares, or partly by the payment of cash and the balance by allotment of shares, all as prescribed in the agreement.

In cases where the company contracts to take over the business as at a date prior to its incorporation, it is usual to stipulate for the vendors receiving interest on the purchase-price; the amount of such interest will, of course, form a credit to the vendors' account.

The auditor will compare such entries very carefully with the vendors' agreement, the prospectus, and the adoptive agreement, and satisfy himself that the terms of

these have been adhered to, and that the transaction has been correctly recorded in the company's books from a bookkeeping point of view.

Where a business is taken over on the basis of a Balance Sheet made up at a certain date, it is the usual practice to have a copy of the Balance Sheet annexed to the agreement; but in cases where this has not been done the auditor will call for its production, and see that the opening entries include all the items therein, after giving effect to any alterations which may be necessary to bring it into conformity with the terms of sale to the new company.

Though it is not a matter over which the auditor can exercise any control, it is very desirable that the accounts opened in the books should separate the assets in a satisfactory and convenient manner. Freehold Land and Buildings and Leasehold Property should, as far as possible, be entered in separate accounts, as it may be necessary to provide for depreciation on the buildings, while in the case of leasehold property an allowance will have to be made annually for redemption. Goodwill and Patent Rights should be in separate accounts, as the latter may require writing down. Fixed and Loose Plant require differential treatment in the matter of depreciation. As regards Capital and Liabilities, separate accounts should be opened for each class of share capital and debentures issued by the company; while, generally speaking, debts secured upon any portion of the company's property or assets, or debts upon which interest is payable, should not be entered along with ordinary trading debts of the company. I am not, of course, referring at present to the manner in which these assets and liabilities should be stated in the Balance Sheet, but solely to the desirability of having the accounts opened in the books in such a way that assets having distinct functions, distinct natures, and requiring distinct methods of treatment will not be mixed up together, and that liabilities which may fall to be ranked in widely different order will not be classed under one or two general titles.

When dealing with the opening entries, the proper apportionment of accruing charges at the date of transfer as between the vendors and the company must receive attention. In some cases it is provided in the agreement that the apportionment of these will be made by the accountants acting in the matter, and this is quite a satisfactory arrangement. Where, however, no provision of this kind has been made, the apportionment will likely be made by the officials of the company, and the auditor will have to see that it has been carried out on proper lines.

The items which fall to be apportioned naturally vary with circumstances and the terms of agreement, but generally it will be found that some apportionment of wages and salaries will be necessary, as the date of transfer will very seldom happen to be the date upon which wages

fall to be paid. The vendors fall to be charged with all wages and salaries earned by employees down to the date of transfer. Rent, Taxes, and Insurance have to be similarly dealt with; but in the case of Taxes and Insurance, which are to some extent prepaid, the vendors may have to be credited with the proportion applicable to the period beyond the date of transfer covered by the payments. The vendors will also be entitled to credit for any proportion of rents receivable where such are transferred. Rents, it is now settled, fall to be apportioned according to the legal terms at which the same are payable, and not, as was at one time supposed, according to the terms of removal. Rents, like interest, accrue from day to day and fall to be apportioned accordingly. The apportionment of interest presents no difficulty, but the auditor will see that only interest on loans which have been taken over is taken into account. Whether dividends on investments taken over fall to be apportioned as between the vendors and the company will depend upon the terms of the contract, but in the case of such investments being acquired by the company *cum* dividend the auditor will have to see that the proportion of dividend accrued at date of purchase is not brought into the Revenue Account of the company. In auditing the vouchers for the cash payments during the early months of the company's existence, a sharp look-out should be kept for items of charges which may under the agreement be payable by the vendors, and which have been overlooked in the apportionment.

In addition to seeing that all the assets taken over are correctly entered in the books, the auditor has the further important duty of satisfying himself, so far as he can reasonably be expected to do so, that such assets have been properly transferred to and duly vested in the company.

The vesting in the company of the heritable property taken over is a legal formality, involving on the part of anyone who is called upon to express an opinion as to its validity a knowledge of conveyancing which no accountant can be expected to possess.

How far the responsibility of the auditor may extend in a matter of this kind has, so far as I am aware, never been ascertained, but it is reasonable to suppose that it must be confined to seeing that the deeds purporting to vest the company in the heritable property are in order from an accountant's point of view. He should see that the disposition in favour of the company is properly signed and recorded, that it purports to convey to the company the ground with the buildings thereon answering the description given in the agreement and prospectus, but it surely cannot be supposed that the auditor would be held responsible for any defect in the titles, or for any misdescription of the property, or faulty draftsmanship in the deeds conveying the property to the company which might afterwards be found to exist.

In addition to examining the deeds himself, the auditor should, where possible, obtain a certificate from the law agents of the company that they hold the titles on behalf of the company, that the same are in order, and that the subjects are free from encumbrances of any kind, except such as are known or declared. Some law agents object to give certificates of this kind, on the ground that they amount to a guarantee, but generally some kind of certificate can be obtained, and the auditor must do the best he can in the circumstances.

If Patent Rights or Trade Marks are included in the assets taken over, the auditor will have to see that these have been properly transferred to and stand in the name of the company.

Fixed Machinery is conveyed by deed along with the Heritable Property, but Movable Plant, Tools, and Stock-in-trade pass to the company by delivery. Where stocks are lying in the hands of neutral storekeepers or third parties delivery orders in favour of the company should be passed.

With regard to the Book Debts, no formality is as a rule necessary to complete the company's title, but, should any difficulty arise with the debtors, an intimation from the vendors in the form of a circular will be sufficient to secure payment to the company.

Investments in stocks or shares must be transferred in the ordinary way, and the auditor will see the certificates in favour of the company.

The liabilities to be taken over will be verified from the Balance Sheet of the vendors and the agreement, and special care is necessary in seeing that the company is not made to assume liabilities which it has not contracted to discharge. It is usually agreed that the benefit and burden of all contracts are to pass to the company. The auditor will be careful to see that such contracts as have resulted, or are likely to result, in profit are brought in; while, on the other hand, where contracts have resulted in loss, the auditor will satisfy himself that such loss on a sound construction of the agreement can be charged against the company. Included among the current contracts are frequently contracts with employees and agents for services, but these in ordinary circumstances do not present any difficulties. They will be used, however, by the auditor, when necessary, for the purpose of vouching any payments made thereunder.

With regard to the assets taken over, the auditor must ascertain the basis upon which the values have been arrived at. He has to report to the shareholders whether in his opinion the Balance Sheet of the company exhibits a true and correct view of the state of the company's affairs, and, before he expresses such an opinion, he must exercise reasonable care and skill to satisfy himself that it does exhibit such a view.

If, as is generally the case, the more permanent assets—such as Buildings, Plant, Machinery, and other fixtures—have been valued by competent valuers, the amounts as certified by them may be accepted by the auditor, after a perusal of their detailed report; but where such valuations have not been obtained, and these assets (as sometimes happens in small companies) are taken over at the value at which they stand in the vendors' books or Balance Sheet, the auditor will require to find out what such values represent, and how they have been arrived at. This involves an inquiry into the method upon which these assets have been dealt with by the vendors year by year in their accounts.

If all Repairs and Renewals have been charged to Revenue, and a reasonable deduction made annually for depreciation, the balances brought out in the books of the vendors will in all probability fairly represent the value of the assets to a going business. Where practicable, an inventory of the fixed plant and machinery should be made up, showing the cost of each machine, the amount written off for depreciation since the date of purchase, and the balance outstanding at the date of transfer. The total of such balances should, of course, agree with the amount at debit of the account in the Ledger, and so form a check upon its correctness. This inventory, if kept up from year to year, is of great assistance to the officials of the company and to the auditor, as, should it be necessary to write off the value at which any machine which has been scrapped or otherwise displaced stands in the books, the value is obtained at once from the inventory. If, therefore, upon investigation it is found that the Plant and Machinery Accounts have been kept upon the principle of charging the cost of new plant and machinery to Capital, and the cost of renewals and repairs to Revenue, or renewals to capital, after writing off the value at which the displaced machine stands in the books, and if it has been the custom to write off annually an adequate allowance for depreciation by reason of wear and tear, the auditor should be satisfied. If, on the other hand, the accounts have not been kept in this way, and the auditor is of opinion that the balances in the vendors' books are larger than they would be if the accounts had been kept on this principle, he will be unable to report that the Balance Sheet exhibits a true and correct view of the state of the company's affairs.

The account in the books of the vendors representing the heritable property should be examined in the same manner, and the principles upon which the value of such property should be judged by the auditor for the purpose of his report are the same as in the case of plant and machinery.

The price paid by the company for goodwill and for patent rights (if any) will be fixed by the agreement, and such price may without question be entered in the company's books to the debit of these accounts. While the

auditor may have his own opinions as to whether the price is a fair one or not, looking to the results of the business, I do not think he is called upon to express such opinion, even in a case where the price appears to him to be excessive.

Goodwill is not like other assets in the sense that it ought necessarily to appear in the Balance Sheet in accordance with well recognised principles. As Professor Dicksee says, "The amount at which goodwill is stated in a Balance Sheet is never supposed to represent either its maximum or minimum value; no one who thought of purchasing a business would be in the least influenced by the amount at which the goodwill was stated in the accounts; in short, the amount is absolutely meaningless except as an indication of what the goodwill may have cost in the first instance."

The auditor should advise, however, that the amount so paid should appear as a separate item in the Balance Sheet, and should not be mixed up with other assets, as is too frequently the case.

The necessity for scrutinising the basis upon which the assets taken over have been valued is particularly apparent in the case of stock-in-trade. The price to be paid for the stock will be stated in the agreement and prospectus, and that amount will fall to be dealt with in the opening entries.

As is well known, the basis upon which stock-in-trade is valued at the beginning and end of the financial year respectively has an important effect upon the trading results of the year, consequently the auditor should see whether stock has been taken on the same lines at both periods, and, if not, he must ascertain the reason for the change and the effect such change will have approximately upon the accounts of the year. The auditor should inquire into the methods upon which the stocks on hand at date of transfer have been taken and valued, and he should as far as possible test the accuracy of the values. This may be done in the case of goods purchased by looking up the invoices, and in the case of goods of the vendors' own manufacture by reference to Cost Accounts, or by any other means which are available. The proper basis for stocks on hand readily saleable at ordinary prices being cost or market value, whichever is lower, the auditor should form a definite opinion as to how far the stocks taken over conform to that basis. In the unlikely event of the stocks being taken over at prices considerably under both cost and market value, he should be careful to note the fact, as in turning over these goods a profit will be shown in the first year of the company's trading, which will be distinctly misleading from the shareholders' point of view. If, on the other hand, as is more likely, the stocks are taken over above rather than under the proper values, in

which case the profits of the first year will be under-stated, the auditor will have to consider whether the circumstances are such as to require him to refer to the matter in his report.

Having thus satisfied himself (subject to the limitation I have explained) that the company has been properly vested in the heritable subjects, and has obtained possession of all the movable assets to which it is entitled under its agreements with the vendors; having verified the liabilities taken over; having seen that the opening entries are in order from a bookkeeping point of view; and having noted the basis upon which the value of the different assets taken over has been arrived at, the auditor has exhausted the special points which call for attention in connection with the transfer of the business.

A special point which arises in the audit of a first Balance Sheet of every limited company is, of course, the verification of entries in the books relating to the issue of share capital and debentures. Shares issued by a company may be divided into such classes as may be authorised by the memorandum of association, but, speaking generally, they are divided into preference and ordinary. Preference shares may be defined as shares entitled to certain priorities over ordinary shares—that is to say, they may be preferable either as to capital or dividend, or both. The dividend on preference shares, again, may be stated to be cumulative, the effect of which is that any deficiency of dividend in any year must be made up out of the profits of future years before the ordinary shareholders participate, but opinions seem to be somewhat divided as to whether, in a case where the dividend is not expressly stated to be cumulative, such dividend is contingent upon the profits of the particular year only, or whether any deficiency falls to be made up out of future profits. Into this question it is not necessary that I should enter, but the auditor should make himself acquainted with the precise rights attaching to preference shares in each particular case, the rate of dividend they are to carry, whether the same is stated to be cumulative or not, whether they are entitled to participate in profits to any extent beyond the fixed rate, and how they stand in a winding-up.

Ordinary shares are sometimes split up into preferred ordinary and deferred ordinary, the former being entitled to certain specified rights over the latter. Where this is the case the auditor will see that effect is given to it in the books and on the face of the Balance Sheet.

Shares of any description may be issued as fully paid, partly paid, or subject to payment of the whole amount in cash.

Where shares are issued either in whole or in part for a consideration other than cash, the terms of Section 7 of the Act 1900 have to be complied with, which provides for a contract in writing, constituting the title of the allottees of

such shares to such allotment, being filed with the Registrar of Joint Stock Companies within one month after the date of allotment; and also of Section 10 (1) (e), which provides that the number and amount of shares issued or agreed to be issued as fully or partly paid up otherwise than in cash must be stated in the prospectus. The auditor should satisfy himself that these provisions have been complied with in all cases in which shares are allotted either fully or partly paid.

Where shares are issued subject to payment of the whole amount in cash, the duty is cast upon the auditor of verifying the cash received, and we shall presently consider how this duty should be discharged. In the first place, however, the auditor should verify the share capital as a whole. The total capital authorised is that mentioned in the memorandum of association, with which the company is registered and upon which stamp duty is paid, and this amount must not be exceeded. The total capital proposed to be issued will be stated in the prospectus. This may be the total authorised, or any less amount, as it is quite a common practice to reserve a portion of the authorised capital for issue at some future time. The amount to be issued as fully or partly paid otherwise than in cash will also be stated in the prospectus, and will be vouched further by the contracts filed in accordance with Section 7 of the 1900 Act. The balance of the capital proposed to be issued falls to be paid in cash, unless a minimum subscription be fixed in the memorandum and named in the prospectus; and where a minimum subscription is fixed the company may proceed to allotment whenever that minimum is reached, otherwise the company cannot proceed to allotment.

When shares or debentures are offered to the public for subscription applicants for shares are usually directed to send their applications to the company's bankers with a remittance for the amount payable on application. This amount must not be less than 5 per cent. of the nominal amount of each share. (Companies Act, 1900, Section 4 (3).) The application forms are obtained by the company from the bankers, and entered into books or sheets having columns for the name and designation of the applicant, the number of shares applied for, and the amount paid on application. The total of the latter column will, of course, agree with the amount lodged in bank, and the Bank Book, certified by the bank, will be available to prove it. Entries are made in the books to debit the bank and credit Application Account with the total amount of cash received on application. When the directors proceed to allotment the number of shares allotted is placed in a separate column opposite the name of each applicant who is to receive an allotment, followed by a column for the amount payable on allotment. Additional columns are usually added to show the amounts returnable to applicants who have

received no allotments, or the balances which are available for allotments or calls in the case of applicants who receive an allotment of a smaller number of shares than the number applied for. In the first audit these books or sheets must be checked by the auditor with the application forms and with the Bank Pass Books, and agreed. The allotments will be verified by minutes of the board, or by a certificate on the Allotment Book signed by the chairman, and the amount paid on allotment will be verified by the Bank Pass Book, or by the detached portions of the allotment letters, which are left with the bank.

The details may vary in individual cases, but in any event the auditor has to satisfy himself that the amounts payable on application and allotment on all shares of the company allotted have been actually paid by the shareholders and received by the company. Calls have to be made in terms of the articles of association and prospectus, and the auditor will see that such calls as have been made are in accordance with the regulations and verify the cash received in the same way.

The auditor must also compare the entries in the list of shares allotted or Allotment Book, verified as previously mentioned, and the cash received on account of such shares as shown by the Cash Book, with the Share Register of the company, and see that the total shares issued and the amounts paid thereon at the date of balance, as shown by the Share Register, agree with the balances of the various Share Accounts in the General Ledger.

The remarks which I have made with regard to verification apply, of course, to debentures as well as to shares, but the auditor will be under the necessity of seeing, as regards debentures, that the amount issued is within the borrowing powers of the company. Debentures may be secured upon the heritable property and fixed assets of the company (in which case they are generally described as "mortgage debentures"), but this, though a usual, is not an essential condition. Where debentures are not secured by a specific charge on fixed assets, the holders are in the same position as ordinary creditors of the company. Debentures may be issued at par, at a premium, or at a discount: they may be redeemable at a fixed period or they may be irredeemable. The rate of interest payable and the terms as to redemption (if any) are specified in the trust deed and prospectus.

When shares and debentures are issued at a premium, how should such premium be dealt with in the accounts of the company?

It has never been definitely decided that it is illegal to carry such premiums to the credit of Profit and Loss, but it would be extremely inadvisable to do so. They should be carried to the credit of a Permanent Reserve Account, or they may quite properly be used for writing down goodwill, or other fixed assets of an intangible nature, or for

writing off losses on Capital Account, or they may be applied in terms of the prospectus to expenses of issue.

If in any case the auditor finds such premiums included in the sum shown as available for division he must make the position quite clear to the shareholders in his report.

I have explained that shares may be issued at what to all intents and purposes is a discount, and everyone knows that debentures may be so issued. The question may consequently arise, in the first audit, how such discounts are to be dealt with.

In the case of both shares and debentures the treatment of the discount will depend on circumstances. If the debentures are redeemable at a fixed date provision will in all probability be made by the company for repaying the same by means of a sinking fund or otherwise. When such is the case the discount will eventually disappear from the company's accounts, and need not otherwise be provided for. Where, however, no provision is made for repayment of terminable debentures, or if the debentures are irredeemable, the discount should be written off gradually. Perhaps the best way would be to regard the discount as an addition to interest, on the principle that debentures can usually be placed at par if the rate of interest is high enough. This interest would be made a charge on Revenue, and the difference between the true rate and the rate payable applied in writing off the discount.

Such discount may also be written off by what is known as the Annuity Method. By this method a fixed sum is charged to Revenue each year, which in a given number of years will write off the discount and interest thereon. No general rule can be laid down either as to the number of years or rate of interest upon which the calculation should be based, but both should be fixed having regard to the rights of the holders of securities participating in the balance of revenue.

If the discount to be dealt arises on an issue of preference shares, the discount should, as in the case of debentures, be regarded as an addition to interest, or written off by the annuity method.

It might be unfair to ordinary shareholders if a comparatively short date were adopted, unless the profits were sufficient to pay in addition a substantial dividend on the ordinary shares, in which case surplus profits might be applied to the purpose. When the discount to be dealt with arises on ordinary shares, it should be wiped out by appropriations from profits, somewhat after the manner in which preliminary expenses are disposed of.

Upon a public issue of shares or debentures a brokerage is usually payable to brokers and agents on all shares applied for through their agency. This brokerage is treated as part of the preliminary expenses.

It almost goes without saying that shares and debentures must appear in the Balance Sheet at face values,

consequently any discount either on shares or debentures must appear under a separate heading among the assets until written off.

This would naturally happen with shares, as the discount must be paid in cash in terms of Section 8 of the Act of 1900; but in the case of debentures issued at a discount, only the net cash would be received by the company, and an entry must be made in the books crediting Debenture Account and debiting Debenture Discount Account with the discount. The auditor will satisfy himself that the rate of discount paid on shares is authorised by the articles of association of the company and disclosed in the prospectus.

It is usual to show upon the face of the Balance Sheet both the authorised capital and the subscribed capital where the whole capital is not issued or subscribed, and in the case of the latter only the amount called up is of course extended. If calls are in arrear at the date of balance, the amount of such may either be shown as a deduction from the capital called up or as an asset on the other side of the Balance Sheet. Calls paid in advance should be separately shown under the heading of Capital, as interest is usually payable upon these. Sums paid in advance of calls do not, of course, rank for dividend.

Although the point may perhaps be somewhat outwith the limits of my subject, it may be mentioned in the way of general information which an auditor should possess that in companies which have adopted the wording of Article 72 of Table "A," which provides that "directors may, with the sanction of the company in general meeting, declare a dividend to the members in proportion to their shares," dividends fall to be divided equally among all shareholders, although some shares may be paid up in full and others only partly paid.

Thus, in *Oakbank Oil Co. v. Crum*, a share with 5s. paid was held entitled to the same dividend as a share with £1 paid. In companies, however, which hereafter adopt the wording of Article 98 of the new Table "A," dividends fall to be declared and paid according to the amounts paid on the shares.

If shares are forfeited for non-payment of calls, or other reasons, such shares should be deducted from the issued capital and the amounts paid thereon set out as a separate item, as dividends are not payable thereon. When reissued they should again be included as part of the capital, and any profit arising on the reissue should be put to either a permanent or ordinary reserve.

Debentures, as I have said, should appear in the Balance Sheet at the face value, whether they have been issued at a discount or at a premium. The interest due or accrued thereon at the date of balance should always appear as an addition to the amount borrowed, as the interest is in the

same position as regards security as the debentures themselves.

The directors of a company not infrequently find it desirable immediately after incorporation to make some additions to buildings or plant and machinery—indeed, the company may really owe its existence to the necessity for such additions—consequently capital expenditure may be regarded as one of the special points which fall to be considered by the auditor in the first audit.

How is the auditor to satisfy himself that such expenditure may be legitimately carried to Capital Account?

Capital expenditure may be defined as—

- (1) Expenditure incurred for the purpose of increasing the earning capacity of the business; or
- (2) Expenditure on permanent property or assets, the fruit of which will be available for paying dividends; or
- (3) Items of outlay which are additions to or extensions of property, which increase thereby the permanent value or influence the production.

It will be seen from a consideration of these definitions that the renewal of fixed assets worn out or otherwise displaced can only be regarded as capital expenditure to the extent of the difference (if any) between the amount at which the displaced assets stood in the books and the cost of the new assets.

Thus, if an old building is pulled down and a new one erected in its place, the whole expenditure cannot be capitalised unless the amount at which the old building stood in the books is written off to Profit and Loss.

The question is sometimes raised whether interest on money employed during the construction of works can be capitalised. In the case of railway and other Parliamentary companies, provision is made for the payment of interest during construction, and such interest does not require to be recouped from future earnings. I know of nothing to prevent the same principle being followed in the case of a limited company, provided the company has itself to pay interest on the money so employed, but a somewhat anomalous position would arise if interest on share capital were debited. Such interest would naturally go to the credit of Profit and Loss, and this, it seems to me, would be open to serious objection.

In the first Balance Sheet of nearly every company the item of Preliminary Expenses is met with. These are expenses incidental to the registration of the company, the issue of the prospectus, the obtainment of the capital, and the vesting of the company in the assets taken over. Preliminary Expenses are undoubtedly of the nature of capital expenditure; but inasmuch as they are of no value to the company it is desirable, and, indeed, almost the universal practice, to write them off gradually out of profits.

It would in most cases be unfair to the first year to write

them off at once, and they are generally spread over a period varying from three to seven years.

The auditor has no power to compel this to be done, but it would be his duty in any year in which no provision was made for reduction of Preliminary Expenses to so state in his report to the shareholders.

The estimated amount of Preliminary Expenses must be stated in any prospectus which is issued to the public within one year of the date at which the company is entitled to commence business.

Where the prospectus estimate is found to be exceeded, the auditor must make the shareholders aware of the fact by means of his report.

The details of the Preliminary Expenses must be carefully scrutinised for the purpose of seeing that they are really due and payable by the company; that no sums included therein are payable by the vendors under their contract with the company, or are illegal under any of the sections of the Acts.

The ordinary brokerage to agents and others on share applications by clients is a proper charge to Preliminary Expenses. Any payments to persons for placing shares, or undertaking to apply for or place shares are illegal, unless authorised by the articles and disclosed in the prospectus.

On the matter of Preliminary Expenses, the auditor will satisfy himself that there is no inconsistency between the preliminary agreement and the prospectus. Such an inconsistency is not unheard of; I have myself had experience of it. When this unfortunately happens and the company has been saddled with preliminary expenses, which according to the prospectus should be borne by the vendors, the auditor must see that a full disclosure of the whole circumstances is made to the shareholders.

When a company is formed to take over a going business as at a date some time prior to the date of incorporation, it is generally provided that the profits earned from and after the date at which the business is to be taken over shall belong to the company.

Such an arrangement has much to commend it on the ground of convenience, as it saves the necessity for taking a balance at the date of the formation of the company.

Thus a company formed for the purpose of taking over a going business as at 31st December may be registered on 31st March, and authorised to commence business on 30th April. In the audit of the first Balance Sheet, which we will assume is made up at 31st December following, the results for a full year fall to be dealt with, although the company has only carried on business for eight months. It is now generally recognised that the proportion of profit earned by such a company from 31st December to 30th April is not available for division among the shareholders in the form of dividend. The soundness of this view is not, I think, open to doubt, for the following reasons:—

(1) A company cannot earn profits before it has commenced business.

(2) In the case supposed the price payable by the company for the business at 31st December included the right to all profits earned after that date. The profit between 31st December and 30th April is therefore a thing bought with, and paid out of, the capital of the company, and to return this profit in the form of dividend would be to return a portion of the capital, which is illegal.

(3) If the company in question had purchased securities at 30th April inclusive of dividends accrued from 31st December previously, which dividends were payable at 30th June and 31st December in each year, it is clear at common law that the proportion of dividend from 31st December to 30th April, being a return of part of the price, could not be treated as revenue. It is submitted that the purchase of a going business at 30th April with right to the profits from 31st December is in exactly the same position.

On the assumption that such profits are not available for division, two questions arise for consideration:—

(1) How is the proportion, in the absence of a Balance Sheet at 30th April, to be arrived at?

In ordinary circumstances it is thought the ends of justice will be met by considering four-twelfths of the total profit for the year as not available for division. In other cases it may be more satisfactory to apportion the profit in accordance with the turnover of the business for the respective periods. In exceptional cases, where special circumstances have to be taken into account, neither of the methods I have mentioned might be very suitable, but an experienced auditor will generally be able to suggest some means of arriving at what would be a fair division.

(2) How should the proportion of profit not available for division be dealt with in the accounts?

It may, of course, be carried to the credit of a permanent Reserve Account; but if the agreement with the vendors provides for the payment of interest on the purchase-price, it is thought that the proportion of such interest for the period from 31st December to 30th April may not improperly be paid out of such profits, or, in other words, debited to the Permanent Reserve Account. The balance may either be left at the credit of Permanent Reserve, or it may with propriety be used for writing down intangible assets, or meeting any losses of a capital nature which may be sustained by the company.

If, on the other hand, the trading of the first year unfortunately results in a loss, can the proportion of such loss applicable to the period prior to incorporation be debited to capital?

It may be argued if profits prior to incorporation fall to be capitalised, losses are in the same position; that a company cannot make losses before it has commenced business any more than it can make profits, and I do not see how such arguments can legally be met.

On the other hand, there is something to be said for the view that this is not a loss of capital. The capital subscribed by the shareholders may be sunk in an enterprise and lost without any legal obligation on the company to replace it out of profits. But is the loss in question not a loss of something over and above the capital so subscribed? From another point of view such a loss may be considered a loss of circulating capital, which falls to be made up before dividends can be paid. In whatever way the matter may stand legally it would be a foolish policy to treat such a loss in this way, and the auditor should advise that the total loss for the year be carried forward at the debit of Profit and Loss to be met out of future profits.

Before completing the audit of the first year's accounts of a company, I think it well for the auditor to see that such books of registry as are prescribed by the Companies Acts are being kept by the company. These are:—

- (1) Register of Members, under Section 25 of 1862 Act.
- (2) Register of Directors, under Section 45 of 1862 Act.
- (3) Register of Mortgages, under Section 43 of 1862 Act.
- (4) Annual List of Members, under Section 26 of 1862 Act.
- (5) Minute Book, under Section 67 of 1862 Act.

Under the Act of 1900, Section 12, Sub-section 3, it is provided that the statutory report to be made to the shareholders under that section shall, so far as it relates to the shares allotted by the company and to the cash received in respect of such shares, and to the receipts and payments of the company on Capital Account, be certified as correct by the auditor (if any) of the company.

This is a special point which may arise in the first audit if the auditors have been appointed before the statutory meeting.

The statutory report and certificate must be in the form prescribed for the purpose, and the only question which I think has given rise to discussion is the question whether, in addition to showing the shares allotted by the company and the cash received in respect of such shares, the report should contain the corresponding information with regard to debentures. The wording of the section is not clear on this point, but the consensus of opinion seems to be in favour of doing so.

Such, gentlemen, appear to me to be the principal points of a special character which are likely to arise in the first audit of a limited company formed to acquire a going business.

Opinions naturally differ as to the best method of dealing with many questions which arise in the ordinary course of our duties as auditors of public companies, and the various points which I have endeavoured to bring under your notice this evening are no exception to the general rule in this respect.

Your President, in discussing the subject with me some time ago, expressed the desire—the importance of which I fully recognise—that such remarks as I felt myself able to make upon it should be framed as much as possible with a view to provoking discussion among the members of the Society, in itself one of the main objects the Society has been established to promote.

With the endeavour to do so—however imperfectly I may have succeeded—I have combined an effort to present a brief sketch of the procedure involved in the formation of a company, and the statutory provisions which bear upon the duties of the auditor both in relation to such procedure and to the constitution of the company generally.

I do not pretend that in either of these directions I have in any way exhausted the subject, or that I have said, or can say, anything that has not been said before, but if I have succeeded in throwing new light upon any point, or if I have brought home with additional force to the minds of the members of this Society the great responsibility which rests upon auditors in dealing with the first Balance Sheet of a limited company, my object in writing the paper will be fully attained.

An interesting discussion followed, and, on the motion of the Chairman, a hearty vote of thanks was accorded to Mr. Mitchell.

Bank Rate of Discount.

April 5th 1906	..	..	..	..	..	..	3½%
May 4th	..	..	..	..	..	..	4%
June 21st	..	..	..	..	..	..	3½%
Sept. 13th	..	..	..	..	..	..	4%
Oct. 11th	..	..	..	..	..	..	5%
Oct. 19th	..	..	..	..	..	..	6%

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The Accountant

Law Reports

VOL. XXXV.—NEW SERIES.

SATURDAY, JULY 7, 1906.

Note as to the references in the following Reports. L.R.—Law Reports; Ch.D.—Chancery Division; K.B.D.—King's Bench Division; W.N.—Weekly Notes; T.L.R.—Times Law Reports; L.J.—Law Journal Reports; L.T.—Law Times; S.J.—Solicitors' Journal.

Administrations.

COURT OF APPEAL.

June 13 and 22.

(Before COLLINS, M.R., COZENS-HARDY, L.J., and
GORELL BARNES, P.)

Pearson v. Wilcock.

*County Court—Administration Order—Judgment for Debt
Incurred Subsequently to Order—Stay of Execution on
Judgment—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52),
s. 112, sub-sec. 5.*

Appeal from the judgment of the Divisional Court affirming the judgment of the Judge of the Bradford County Court.

In June 1905 the plaintiff had obtained judgment against the defendant for £5 rs. 1d. in the above-mentioned County Court for groceries supplied. The amount of the judgment was made payable by instalments of 5s. a month. The defendant having made default in payment of the second instalment, the whole amount of the judgment debt became payable, and accordingly execution was issued in October. The bailiff did not actually enter into possession. The defendant then made an application for a stay of execution upon the ground that three years previously an administration order had been obtained by him under section 122 of the Bankruptcy Act, 1883, a fact, however, which had never been communicated and which was unknown to the plaintiff. The payment provided under the administration order was the sum of 5s. in the pound on the debts, which amounted to £35, and such payment was to be at the rate of 4s. a month. Subsection 5 of section 122 of the Act of 1883 provides that during the continuance of the order

"no creditor shall have any remedy against the person or "property of the debtor" in respect of a scheduled debt "except with the leave of that County Court, and on such "terms as that Court may impose; and any County Court "or inferior Court in which proceedings are pending against "the debtor in respect of any such debt shall on receiving "notice of the order stay the proceedings."

The County Court Judge, holding that subsection 5 applies to all creditors—that is to say, to subsequent creditors as well as to those who were creditors before the date of the order—granted the defendant's application for a stay of execution.

The Divisional Court (Kennedy, J., and A. T. Lawrence, J.), on appeal, affirmed the judgment of the County Court Judge.

The plaintiff appealed.

JUDGMENT.

Their Lordships dismissed the appeal.

(L.J. 440.)

Bankruptcies and Insolvencies.

CHANCERY DIVISION.

June 15.

(Before BUCKLEY, J.)

Bradfield v. The Cheltenham Guardians.

*Guardian of the Poor—Disqualification—Composition or
Arrangement with Creditors—Administration Order in
County Court—Bankruptcy Act, 1883 (46 & 47 Vict. c.
52), s. 122—Local Government Act, 1894 (56 & 57 Vict.
c. 73), s. 46 (1) (c).*

The plaintiff was in 1904 elected a guardian of the Cheltenham Union. A judgment having been recovered

against him in the County Court, he, in December 1905, requested that Court to make an order for the administration of his estate under the provisions of section 122 of the Bankruptcy Act, 1883, proposing to pay 10s. in the pound. The Court made an order to that effect. The defendant Board of Guardians had declared his seat vacant and held a new election, on the ground that he had made a composition or arrangement with his creditors and was therefore disqualified under section 46 (1) (c) of the Local Government Act, 1894. The plaintiff brought an action against them for a declaration that he was not disqualified, and now moved for an injunction restraining the defendants from interfering with him in the exercise of his office as a guardian.

JUDGMENT.

Buckley, J., said that, in his opinion, the proceedings under section 122 of the Bankruptcy Act were a statutory method of making a composition with creditors, of which the plaintiff had availed himself. The plaintiff had therefore made a composition within the meaning of section 46 (1) (c) of the Local Government Act, and was disqualified from being a guardian.

(L.J. 422.)

KING'S BENCH DIVISION.

June 25.

(Before BIGHAM, J.)

Re Klein; ex parte Goodwin.

Bankruptcy—Preferential Claim—Commercial Traveller Paid by Salary and Commission—Preferential Payments in Bankruptcy Act, 1888 (51 & 52 Vict. c. 62), s. 1, sub-sec. 1 (b).

Motion by a person who had been employed by the bankrupt as a commercial traveller, at a salary and commission, for a declaration that he was entitled to rank as a preferential creditor in respect of commission earned within the four months immediately preceding the bankruptcy. The applicant, C. H. Goodwin, had been in the bankrupt's employ from June 1904, down to the date of the bankruptcy. He had been paid a salary of £2 per week and 3½ per cent. commission on all orders obtained by him. He had been in the habit of drawing £2 10s. per week on account of salary and commission. During the four months immediately preceding the bankruptcy he had earned commission to the amount of £24 12s. 3d., which sum he claimed from the trustee as "wages or salary" within section 1, sub-section 1 (b), of the Preferential Payments in Bankruptcy Act, 1888. The trustee paid the applicant salary in full at the rate of £2 per week, but refused to admit the sum claimed for commission as a preferential claim, and would only allow him to prove for it.

JUDGMENT.

Bigham, J., held that the commission must be paid in full as a preferential claim. The applicant had rendered services for which he was entitled to be paid at the rate agreed. The fact that his salary was payable partly by a fixed weekly sum and partly by commission made it none the less "salary" within the meaning of the Preferential Payments Act, 1888. Application allowed.

(50 S.J. 577.)

KING'S BENCH DIVISION.

June 25.

(Before BIGHAM, J.)

Re Button; ex parte White v. Havaside.

Bankruptcy—Property of Bankrupt—Order and Disposition—Reputed Ownership—Custom of Trade—Dealers in Antiques—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 44, sub-sec. 2 (III).

Application by the trustee for a declaration that a number of goods found upon the bankrupt's premises at the commencement of the bankruptcy formed part of the property of the bankrupt divisible among his creditors. The bankrupt had carried on business as a dealer in antiques. The respondent had been a frequent customer, and at the date of the commencement of the bankruptcy the respondent had about £700 worth of goods on the bankrupt's premises. Some of these were goods which the respondent had bought from the bankrupt and left with him until required, others were goods left to be repaired, others left with the bankrupt to be sold, others goods which the bankrupt had bought for the respondent. It was admitted that these goods were all in the possession of the bankrupt with the consent of the respondent, but it was contended that there was a custom of trade which excluded the doctrine of reputed ownership. The custom alleged was that dealers in antiques habitually have among their stock goods belonging to other persons and left with them to be sold. Two dealers were called in support of this contention, but their evidence did not amount to more than that it sometimes happens that people send goods to them to be sold.

JUDGMENT.

Bigham, J., held that the attempt to prove a custom must fail. No doubt at times goods were sent to the dealers to be sold, but that was not sufficient to raise a presumption that all the goods in the shop of a dealer in antiques might be the property of other persons than the dealer. Application allowed.

Company Law.**CHANCERY DIVISION.**

June 13.

(Before BUCKLEY, J.)

In re The Monmouthshire Steel and Tinplate Co., Lim.*Company—Reduction of Capital—Use of Words “and Reduced”
—Companies Act, 1877 (40 & 41 Vict. c. 26), s. 4.*

The company had effected a reduction of capital by cancelling capital lost or unrepresented by available assets. A petition for the confirmation of the reduction had been presented, and came on for hearing a month after presentation.

Hon. F. Russell, for the petition, asked that the further use of the words “and Reduced” might be dispensed with altogether, as in *In re Sumatra Tobacco Plantation Company* (33 L.J.N.C. 406; W.N. (1898) 80), since the company did business abroad.

JUDGMENT.

Buckley, J., directed that the words “and Reduced” should be used for a further period of one month only.

(L.J. 422.)

CHANCERY DIVISION.

June 13.

(Before BUCKLEY, J.)

In re The Irish Club Co., Lim.*Company—Winding-up—Company Limited by Guarantee—
Debentures—Charge on all Assets of Company—Capital to
be Contributed only on Winding-up.*

Petition by creditor for a winding-up order.

The company was one limited by guarantee, not by shares. It was alleged that the amount of the debentures which had been issued, and which constituted a charge on all the assets of the company, present and future, exceeded the assets of the company, and that there would therefore be no assets to wind up.

The liability of the members under the memorandum of association was to contribute such sum as might be required, not exceeding £5, in the event of the company being wound up during their membership or within a year afterwards, towards the payment of the debts and liabilities of the company and the expenses of winding up, and for the adjustment of the rights of the contributories.

T. T. Methold, for the petition, argued that as the liability of members was of this character the capital was of the same nature as share capital, which could only be called up in the event of winding-up, and on which it had been held in *In re The Mayfair Property Company* (67 L.J. Rep. Ch. 337; L.R. (1898) 2 Ch. 28) that a charge could not be created.

JUDGMENT.

Buckley, J., considered that the principle of *In re The Mayfair Property Company* applied, and made a winding-up order.

(L.J. 422.)

CHANCERY DIVISION,

June 27.

(Before BUCKLEY, J.)

Newton v. Birmingham Small Arms Company, Lim.*Company—Internal (or Secret) Reserve—Restriction of
Auditor's Duty to Report to Shareholders—Companies Act,
1900, secs. 21-23—Validity of Articles—Injunction.*

This was the trial of an action brought by Sir A. J. Newton, suing on behalf of the shareholders of the defendant company, against the company, claiming a declaration that a special resolution passed and confirmed in January and February, purporting to alter the company's articles of association by inserting provisions therein for an internal reserve fund, was *ultra vires* and invalid, and an injunction to restrain the company and its directors from acting on such resolution. The new article objected to was so far as material as follows:—“In addition and without prejudice to “Articles 132 and 133” [which related to the formation of and dealing with a reserve fund] “the directors may in any “year in which they shall recommend a dividend to be paid “on the ordinary shares . . . of not less than 10 per “cent. on the amount paid up thereon set aside (without “disclosing the fact) out of the earnings or profits in such “year remaining after providing the amounts necessary to “pay the dividends payable on preference shares and the “dividend which they recommend on the ordinary shares “such a sum as they may deem necessary or desirable in “the interest of the company as an internal reserve fund, or “as an addition to such internal reserve fund when formed, “which internal reserve fund shall be held upon the terms “and for the purposes following, that is to say—(a) The “internal reserve fund shall be separate from the reserve “fund under Article 132, and need not be shown or disclosed “by the Balance Sheet, and the directors need not give any “information to the shareholders as to the amount, investment, or application thereof, or otherwise in relation “thereto, either in their report or otherwise. (b) Such “internal reserve fund may be invested upon such investments (other than the shares of the company) as the “directors may in their absolute discretion think fit, “without their being liable for any depreciation of or loss “in consequence of such investments. . . . (c) Such “internal reserve fund may be used and applied at the discretion of the directors for any purpose for which the

"ordinary reserve fund is available, or for any purposes which the directors in their absolute discretion may consider will serve, protect, or advance the interests of the company, or preserve or promote the value of the undertaking, assets, or goodwill of the company. (d) The directors shall disclose the internal reserve fund and the amount thereof, and all additions thereto, and all other particulars in respect of the said fund to the auditors of the company appointed by the shareholders, whose duty shall be to see that the same is applied for the purposes of the company in accordance with the provisions hereinbefore contained, but not to disclose any information with regard to the same to the shareholders or otherwise."

Mr. Buckmaster, K.C., and Mr. H. K. Newton, for the plaintiffs, contended that the new article was inconsistent with the duties as to auditing a company's accounts under section 23 of the Companies Act, 1900. The section was almost an embodiment of the provisions of section 7 of the Companies Act, 1879, with reference to the audit of accounts of limited banking companies. The first question was, What would the new article enable the directors to do? They could create an internal reserve as to which there was no supervision, and might use it as they thought fit.

Mr. Justice Buckley suggested that it was authorising the directors to use a secret service fund—a thing which was not unknown.

Counsel, continuing, said that perhaps such a fund had in times past been used for purposes which would be wrong in the case of a private individual. As regards companies, however, which were not banking companies, before the Act of 1900 there was no statutory requirement as to auditing. But apart from statute, the shareholders could insist on the directors' proper management of the company's affairs, and had the right to have accounts so that they might ascertain whether the management had been properly conducted. In *In re Forest of Dean Coal Mining Company* (10 Ch.D. 450) Sir George Jessel had defined the position of directors, saying:—"Directors have sometimes been called trustees, or commercial trustees, and sometimes they have been called managing partners; it does not much matter what you call them so long as you understand what their true position is, which is that they are really commercial men managing a trading concern for the benefit of themselves and of all the other shareholders in it." Statutory rights of shareholders such as the right to petition for winding-up, and the right to dissent and be paid out on a reconstruction, could not be excluded or limited by the company's articles. In *re Peveril Gold Mines* (1898, 1 Ch., 122); *Payne v. The Cork Company* (1900, 1 Ch., 308). Nor could the statutory right to have proper information under section 23 of the Act of 1900 be excluded by those means. Section 21 of the Act required the shareholders at each annual meeting to appoint an

auditor, and if that was not done one shareholder could ask the Board of Trade to appoint an auditor. Under section 23 the auditor had to report and certify, and it was not open to the company by its articles to compel an auditor to commit a misdemeanour by disobeying the section. The new article was *ultra vires* and ought not to be allowed to be acted on.

Sir Robert Finlay, K.C., and Mr. R. J. Parker, for the company, said that to a great extent the principles put forward were not disputed. But there was no attempt to make the auditors neglect their duty. The question was whether there was anything in the new articles inconsistent with section 23 of the Act of 1900 and the duties thereby imposed. Before that Act there was no statutory requirement as to Balance Sheets. Section 23 did not require a Balance Sheet. It said that the auditors must sign a certificate at the foot of the Balance Sheet, and must report on "every Balance Sheet laid before the company"; but the article did not prevent the auditors from correctly certifying and reporting. The object of the article was to prevent information going out which might injure the company and help other concerns. It might not be expedient either to show that a loss had been made on some branch of business, or that even large profits had been made. Nor was it desirable to pay away to shareholders everything which might be distributable as dividend without laying by something for a rainy day. It was only proposed to do, with the assent of the shareholders, what was done every day without their assent. It was well known that there was a practice of writing down the value of assets so as to show a smaller margin for dividends. Each shareholder joined the company on the assumption that his rights might be altered by means of an alteration of articles. Their right to have a Balance Sheet depended on the articles, and if a Balance Sheet might be wholly dispensed with it might be dispensed with in part. An auditor might say that on ninety-nine points the Balance Sheet was right, but that on the hundredth point it did not give any information, because the shareholders were precluded by the articles from requiring that information. As regards rights which were not statutory, these might be controlled by the articles.

JUDGMENT.

Mr. Justice Buckley delivered judgment as follows:—In February last this company passed special resolutions the short substance of which is that the directors may, under defined circumstances, set aside (without disclosing the fact) out of the profits sums to form an "internal reserve fund"—a sort of secret service fund—and that this fund need not be shown in or disclosed by the Balance Sheet and no information need be given to the shareholders as to its amount, investment, or application; that the directors may invest it as they may think fit without being liable for loss in consequence of such investments; that they

may apply it for any purposes which they consider will advance the interests of the company; and that, while the particulars as to this fund are to be disclosed to the auditors, it is to be the auditors' duty not to disclose any information with regard to it to the shareholders or otherwise. The question for decision is whether, having regard to sections 21 to 23 of the Companies Act, 1900, these special resolutions are *ultra vires*. The Companies Act, 1862, was silent as to accounts. Table A (which the company might or might not adopt, as it chose) contained provisions on the subject, but otherwise the Act left the matter untouched, relying, no doubt, upon the application of the ordinary principles applicable as between partners and proceeding upon the footing that the members of a company under the Act are partners in a special sort of partnership modified and governed by statutory provisions. The Companies Act, 1879, section 7, contained, for the first time, provisions as to audit of accounts, and was confined to banking companies registered after 1879 as limited companies. The Companies Act, 1900, sections 21 to 23, for the first time contained provisions as to the audit of the accounts of other companies under these Acts. The provisions of the Act of 1879 and those of the Act of 1900 are closely similar, though not the same; so similar, indeed, as that the reason for the difference is hard to see. The principal differences that I trace are that the Act of 1879 does, while the Act of 1900 does not, provide affirmatively for an annual audit, and that the Act of 1879 does, while the Act of 1900 does not, provide that if there is no auditor a meeting shall be forthwith called to elect an auditor. As regards the former of the differences, I think that the Act of 1900 (though it does not do so expressly) yet does impliedly provide for an annual audit. Section 21, sub-section 1, requires the annual appointment of an auditor to hold office for one year, and the Act contemplates that he will audit during his tenure of office. There will thus result an annual audit. As regards the latter difference, I find that section 21, sub-section 2, provides for the appointment of an auditor by the Board of Trade on the application of any member in case an auditor has not been appointed at the annual meeting. Neither statute contains any provision in favour of the public in the matter of publication of the accounts. The two statutes really do not differ, I think, in substance in their result. The question is how far the Act of 1900 goes in requiring for the protection of the members that the accounts shall be open to audit and that the report on them shall be made to the members. The defendants do not dispute that, if and so far as the special resolutions are inconsistent with the Act, it is the Act which must prevail. The concluding sentence of section 23 requires that the auditor shall state whether the Balance Sheet exhibits a true and correct view of the state of the company's affairs as shown by the books. Sir Robert Finlay

argued that these words are satisfied if the auditors report that the Balance Sheet does not exhibit a true view and that the statute does not, in these words, say that they shall report what is the true view. This is logically true as regards the language, but, in my judgment, the statute is saved from the reproach of having achieved no more than this impotent result by words earlier in that section, which provide that the auditors are to report to the shareholders on the accounts. A report upon the accounts involves a report of the result of the accounts, and this necessarily involves, as matter of substance if not of form, the statement of a Balance Sheet or the equivalent of a Balance Sheet. There are, I agree, in the Act of 1900 no affirmative words to the effect of what I am about to state, but I think the language of the Act is sufficient to show that by implication it requires that there shall be annually an audit of accounts resulting in a Balance Sheet, to the accuracy of which the auditors shall speak. The special resolutions in the present case provide that the Balance Sheet shall not disclose the internal reserve fund. It must therefore omit on the assets' side of the Balance Sheet the assets which make up the amount standing to the credit of that fund and the *contra* item—namely, the credit balance of the fund—on the liability side. The result will be to show the financial position of the company to be not as good as in fact it is. If the Balance Sheet be so worded as to show that there is an undisclosed asset, the existence of which makes the financial position better than shown, such a Balance Sheet will not, in my judgment, be necessarily inconsistent with the Act of Parliament. Assets are often, by reason of prudence, estimated, and stated to be estimated, at less than their probably real value. The purpose of the Balance Sheet is primarily to show that the financial position of the company is at least as good as there stated, not to show that it is not or may not be better. The provision as to not disclosing the internal reserve fund in the Balance Sheet is not, I think, necessarily fatal to the special resolutions. The Act, however, provides that the auditors shall report to the shareholders on the accounts examined by them. These auditors will examine, among others, the accounts of the internal reserve fund. A principal question in this case, I think, is whether it is a compliance with these words of the Act that the auditors shall report that they have examined the accounts as to the internal reserve fund, that they are satisfied with them, and that the funds have been employed in manner authorised by the company's regulations, or whether there will be default in complying with the Act if they do not go on to say how the fund has been employed. In my judgment such a report would be a sufficient report within the Act if the auditor is *bond fide* satisfied that in making this report, and nothing further, he is truly reporting as to "the true and correct view of the state of the company's affairs." But the special resolutions

do not stop there. They provide that it shall be the duty of the auditor not to disclose any information with regard to this fund to the shareholders or otherwise. It is, I think, inconsistent with the Act of Parliament that the auditor shall be bound, even when he thinks that the true state of the company's affairs is affected by facts relating to the internal reserve fund, to withhold all information with regard to the same from the shareholders. If, for instance, the directors had invested the internal reserve fund upon investments which might involve the company under certain circumstances in enormous loss, the Act, I think, requires that the auditor shall be at liberty and be bound to report that fact. In reporting upon the accounts submitted to them the auditors do not, of course, report as to the details of the accounts to which they find no cause to take exception. Their duty is to call attention to that which is wrong, not to condescend upon all the details of that which is right. It is, I think, competent to the statutory majority of the shareholders to say that as to particulars items of their business it is to the interest of the corporation that there shall be secrecy, and that the auditors, who must for the purposes of their audit know all such details, shall not, unless their duty under the statute requires it, disclose such details to the members. There is no suggestion in this case that these clauses are intended to be used for any other than a legitimate purpose. Those who are engaged in commerce are familiar with the fact that undue publicity as regards the details of their trade, or as to the financial arrangements, may often be injurious to traders, having regard to the rivalry of competitors in trade, to complications sometimes arising from strained relations between capital and labour, and the like. There are legitimate reasons for ensuring secrecy to a proper extent. It is not, I think, necessary, nor, having regard to the great utility of these Acts, is it desirable to expose persons who trade under these Acts, to the necessities of a publicity from which their competitors are free unless such publicity is required to ensure commercial integrity. I am not disposed to look too closely for reasons why I should find clauses such as these to be inconsistent with the Act if I see that the true purpose of the Act is satisfied. I think, however, these special resolutions go too far. Any regulations which preclude the auditors from availing themselves of all the information to which under the Act they are entitled as material for the report which under the Act they are to make as to the true and correct state of the company's affairs, are, I think, inconsistent with the Act. The defendants have left me in some doubt as to the exact position which they take up in the matter. They have desired to obtain the opinion of the Court upon the general question under the Act. They are entitled to do so, and this judgment, I hope, will put them in possession of my views on the subject, but I am not clear whether they threaten and intend to act upon the resolutions as they

stand. They say, truly, that as regards the details of the resolutions, when they know the view of the Court upon the Act of Parliament, they can by further special resolutions alter their scheme so as to make it consistent with that view. There are no pleadings, so that it is only from the attitude of the defendants at the Bar that I can ascertain whether they threaten and intend to do the act against which an injunction is sought. It is not according to the practice of the Court to enjoin an act unless the defendants threaten and intend to do it. I postpone, therefore, for the moment the question of the exact form of the order so that I may hear what the defendants have to say.

Mr. R. J. Parker said that the company did not intend to act on the new article in its present form, and suggested that a declaration that it was *ultra vires* so far as inconsistent with the Act of 1900 would be sufficient. It was pointed out that there might be some difficulty in case an appeal was brought from his Lordship's judgment, and, after some discussion, his Lordship granted an injunction to restrain the company from acting on the special resolution, and ordered the company to pay the costs.

(Times.)

Income Tax.

KING'S BENCH DIVISION.

May 29.

(Before KENNEDY, J.)

Shrewsbury v. Shrewsbury.

Revenue—Income-tax—Agreement for Payment of Annuity—“Clear of all Deductions”—Right of Party making Payment to Deduct Tax—Income Tax Act, 1842 (5 & 6 Vict. c. 35), sub-secs. 102, 103.

This was an action under Order XIV. of the rules of the Supreme Court, 1883, brought by the Countess of Shrewsbury against her husband, the Earl of Shrewsbury in which the plaintiff claimed to recover £50, the balance of a quarterly payment of £1,000 payable to her by agreement. The defence was that the defendant was entitled to deduct that sum as income-tax on the £1,000.

On March 24 1896 Lady Shrewsbury wrote to Lord Shrewsbury as follows:—“To the Earl of Shrewsbury and Talbot,—I am willing to live apart from you in future, and not in any way to molest and interfere with you, or to bring any proceedings against you, or to attempt to force you to return to cohabit with me, if you on your part will make no further scandal and agree to the following:—That you will in no way molest or interfere with me, or bring any proceedings, or otherwise attempt to force me to return to cohabit with you. That you will keep up Ingestre and Alton Towers, and permit me to reside at Alton whenever I desire, and at Ingestre at

"Christmas and other periods of the year when not occupied by yourself. That you will permit the children to reside with me in general, but that they should visit you at agreed times of the year. That you will pay to me during our joint lives an allowance of £4,000 a year, clear of all deductions, to be secured as my solicitor may require, the allowance to be paid quarterly in advance, such allowance to cover all the expenses of the schooling, education, and clothing of the children for the next three years, after which a further and additional allowance will be required for these purposes." On July 27 1896 Lord Shrewsbury replied:—"To the Countess of Shrewsbury and Talbot,— . . . I accept the conditions named, and undertake to conform to and comply with the conditions stated by you. I also undertake to secure the allowance of £4,000 per annum upon my life interest in the Shrewsbury estates, and the fee simple in the Ingestre estates, subject only to the charges affecting the same respectively, and to a further sum, not exceeding £45,000, to be raised for payment of debts." This was the agreement relied on, and an action had been brought in the Chancery Division to enforce payment under it, when it had been decided (by consent) that the agreement was a valid one, and that the plaintiff was entitled to the full payment of £4,000; but the present point was not then raised.

Mr. Eustace Hills, for the plaintiff, admitted that income-tax was payable on this £4,000, and that, if Lord Shrewsbury was right, he was justified in making the deduction. But he contended that the question was, What was the intention of the parties as appearing in the document? In this case there had been no legal separation, but only a separation by consent, and, therefore, the intention to be assumed was to pay the allowance, as if it were paid to her in his own house. Was the agreement to pay Lady Shrewsbury a sum which would produce £3,800 or £4,000 a year? He admitted that two persons could not agree that one should pay a certain annuity to the other, and that income-tax should not be deducted by either side, but there was nothing to prevent an agreement to pay the annuity having first paid the income-tax. Lord Shrewsbury would have to pay the income-tax on the £4,000, and was seeking to put the payment on Lady Shrewsbury.

Mr. J. G. Joseph, for the defendant, said that the defendant considered that he was under a statutory duty to deduct the tax from the annuity and that Lady Shrewsbury was bound to permit the deduction under sections 102 and 103 of the Income-tax Act of 1842. Section 102, so far as material, said:—"Upon all annuities . . . or other annual payments . . . either as a charge on any property of any person paying the same by virtue of any deed or will or otherwise . . . or as a personal debt

"or obligation by virtue of any contract . . . there shall be charged for every 20s. of the annual amount thereof the sum of (1s.) . . . provided that in every case where the same shall be payable out of profits or gains brought into charge by virtue of this Act no assessment shall be made upon the person entitled to such annuity interest or other annual payment, but the whole of such profits or gains shall be charged with duty on the person liable to such annual payment, without diminishing such annual payment, and the person so liable to make such annual payment . . . shall be authorised to deduct out of such annual payment at the rate of (1s.) for every 20s. of the amount thereof, and the person to whom such payment liable to deduction is to be made shall allow such deduction . . . under the penalty hereinafter contained, and the person charged to the said duties having made such deduction shall be acquitted and discharged of so much money as such deduction shall amount unto, as if the amount thereof had been actually paid unto the person to whom such payment shall have been due and payable. . . ." And section 103 ran:—"If any person shall refuse to allow any deduction authorised to be made by this Act . . . out of any annuity or annual payment mentioned . . . in the next preceding clause . . . every such person shall forfeit the sum of £50; and all contracts, covenants, and agreements made or entered into or to be made or entered into for payment of any . . . annual payment aforesaid, in full, without allowing such deduction as aforesaid, shall be utterly void." Both those sections applied here. An agreement to charge was in equity a charge. This was "a personal debt or obligation by virtue of any contract." This was properly brought into charge, although there was a personal promise. He referred to section 40 of the Income-tax Act of 1853, which extended the right to deduct and the obligation to permit the deduction. Under Schedule A of the earlier Act the earl's life interest in the two estates was chargeable with the payment of the income-tax. He cited the judgment of the Master of the Rolls in *Floyer v. Bankes* (32 L.J. Ch. 610). The word "allowance" in the agreement was included by the phrase "annual payment" in the Act. The defendant was bound to pay this annuity. Even if this had been the case of a will, to which section 103 did not apply, he submitted that the words "clear of all deductions" would have no effect and could not include income-tax—*Gleadow v. Leatham* (22 Ch.D. 269). *In re Buckle* (1894, 1 Ch. 286) did not apply, because there it appeared that income-tax was intended to be included in the word "deduction."

Mr. Hills, in reply, said the word "allowance" referred to the sum as it came into the hands of the donee. The £4,000 the defendant agreed to pay had already paid

income-tax. He relied on *Frankfort v. Frankfort* (4, Notes of Cas. 280), the words of the contract, and the relationship of the parties. Common sense might always come to the aid of law. The intention to pay the full sum was clear. This contention was only raised eight years after the making of the contract.

JUDGMENT.

Mr. Justice Kennedy said this was an action under order XIV.; £950 had been paid into Court. Only the sum of £50 was in question. His decision would only affect future payments during the life of the donee. He had had the advantage of seeing the judgment of Mr. Justice Kekewich in *In re Barry's Trust; Barry v. Smart* (since reported (1906, 1 Ch. 768), which discussed *Frankfort v. Frankfort*. He referred to the contract contained in the letters between the parties. He had to construe the clause dealing with the payment of "an allowance of £4,000 a year clear of all deductions." This action depended on the construction of the provisions of the Acts of 1842 and 1853, which had been dealt with by Mr. Justice Kekewich in the cases of *Warren v. Warren* (72 L.T. 628) and in *In re Barry's Trust; Barry v. Smart*. His Lordship felt himself bound by those decisions and concurred in them. The effect of the statutes was clear that such an annual payment charged upon certain property should be made by the payer only after deducting income-tax, and that under section 103 the payee should recognise the right so to deduct. The words of the contract fell within sections 102 and 103. He was not satisfied that the contract would have been void under section 103 if in some way the plaintiff had come into possession of £4,000 a year after complying with section 102; but that was not the case here. "Clear of all deductions" must refer to income-tax if it were to avail to make the payment clear of income-tax even in the case of a will. Neither the relationship of the parties nor the use of the word "allowance" did, in his view, prevent the application of the sections. Section 103 expressly covered the case of contractual obligation. There must be judgment for the defendant with costs.

(22 *Times Law Reports*, 598.)

Partnerships.

COURT OF APPEAL.

June 19.

(Before VAUGHAN WILLIAMS, ROMER, and MOULTON, L.JJ.)

Re Bourne; Bourne v. Bourne.

Partnership—Lien of Partner's Executors on the Assets of the Partnership—Deposit of Deeds by Surviving Partner—Priorities—Partnership Act, 1890 (53 & 54 Vict. c. 39), s. 39.

This was an appeal from a decision of Farwell, J. (reported 54 W.R. 154; 1906, 1 Ch. 113). On the 1st of July 1873 articles of partnership were entered into between W. T. Bourne and Geo. Grove. Geo. Grove died on the 9th of May 1901. A deposit of deeds was made on the 7th of February 1902 in favour of Messrs. Berwick & Co., bankers, accompanied by a memorandum of deposit signed by the testator W. T. Bourne in the name of

"Bourne & Grove." The memorandum related to certain hereditaments which formed part of the assets of the partnership of Bourne & Grove. W. T. Bourne died on the 3rd of September 1902. His estate was insolvent. The overdraft at the bank was then about £4,500. An action was commenced against Bourne's executors to administer his estate. By an order dated December 1903 it was ordered that the executors of Geo. Grove be at liberty to prove for £3,000 against the estate of W. T. Bourne and have a lien for the amount of such debt and costs on the assets of the partnership. After the death of W. T. Bourne the business was carried on as a going concern by a receiver appointed in the action, and was sold under an order of the 6th of April 1903 for a lump sum, and the proceeds of sale were paid into Court and invested in Consols. The property, subject to the memorandum of deposit, was represented by a sum of about £5,300, being part of such proceeds of sale, and was therefore insufficient to pay both the bankers and Geo. Grove's executors in full. On the action coming on for further consideration, Farwell, J., decided that the bank were entitled to priority in respect of the £5,300. Geo. Grove's executors appealed.

JUDGMENT.

The Court dismissed the appeal.

Vaughan Williams, L.J.: It is admitted by counsel for the appellants that when there is a partnership between two parties, and one of them dies, the surviving partner has not only the right, but the duty to realise the partnership assets. But it is said that, though this is true as regards such personal assets as are personal property, it is not true in respect of realty. Now in the first place no authority has been produced in support of this proposition, and in the second place, so far as principle is concerned, it is obvious that the principle is wide enough to cover both realty and personalty. The truth is that between the surviving partner and the representatives of the deceased partner there is an overriding duty to wind-up the partnership and to do all such acts as are necessary for the winding-up, and if it is necessary for the purposes of the winding-up he may borrow money and raise such money on the security of the assets of the partnership, whether such assets are real or personal estate. It has further been decided that an equitable mortgage by a surviving partner to answer a partnership debt is valid: *Re Clough* (34 W. R. 96, 31 Ch. D. 324). In these circumstances I think this part of the argument fails. Then it was said that by the application of the principles which are the foundation of the rule in *Clayton's case* (1 Mer. 572), this debt must be taken to have been paid, and therefore the bank cannot rely on this mortgage, because they must be taken to have known that, the debt having been paid, the surviving partner had no right to pledge the partnership assets. The answer to this is, that so far as the bank were concerned this was an ordinary winding-up of a partnership, and both the payments in and payments out must be taken to have been made on behalf of the winding-up. The appeal must be dismissed.

Romer and Moulton, L.JJ., delivered judgments to the same effect.

Law Reports.**Bankruptcies and Insolvencies.****KING'S BENCH DIVISION.**

June 9.

(Before BIGHAM, J.)

Re Pilling; ex parte Salaman.

Bankruptcy — Power of Trustee to Compromise Claims—Application by Trustee for Directions—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 57, subsec. 6; s. 89, subsec. 3.

Application by the trustee in bankruptcy for directions. The trustee with the sanction of the committee of inspection proposed to sanction the compromise of a claim subsisting between the bankrupt and other persons. The bankrupt, who alleged that if the claim were enforced there would be a surplus after payment of creditors in full, was strongly opposed to the compromise, and had threatened the trustee with proceedings if the compromise were carried out. The trustee to protect himself applied to the Court for directions. The bankrupt appeared to oppose any sanction of the compromise.

JUDGMENT.

Bigham, J., refused to give any directions. The trustee with the sanction of the committee of inspection had gone carefully into the matter and proposed to compromise the claim, as he had the power to do under subsection 6 of section 57 of the Bankruptcy Act, 1883. The matter was eminently one for the trustee and the committee to decide, and as they had come to the determination to compromise the claim, the Court would not go into the facts, and no directions would be given.

(50 S.J. 617.)

DIVISIONAL COURT IN BANKRUPTCY.

July 5.

(Before BIGHAM and SUTTON, JJ.)

*Ex parte The Petitioning Creditor v. The Debtor.**When a Petition may be Dismissed.*

This was an appeal from the Newcastle County Court against the dismissal of a petition. The debt, which was not disputed, was for £412 odd, and the act of bankruptcy non-compliance with notice. The debtor gave notice to dispute, and oral evidence was given by him at the hearing. The County Court refused to make a receiving order, on the ground that there were no assets. The debtor appeared to have an interest in the income on a fund of £60,000, which would disappear on bankruptcy. Counsel for the respondent relied on the decision in *Re Otway*, reported in 1895, 1 Q.B., where the Court declined to make a receiving order on somewhat similar grounds, although

there were other circumstances in that case which did not appear here. For the appellants it was urged that until the preliminary and public examinations had been held there was not sufficient material before the Court for anyone to say definitely that there were no assets, or that the bankruptcy would destroy the only asset. Counsel claimed that alienation on bankruptcy under the deed of grant was a discretionary trust only. The cases of *Re Leonard*, *Re Birkin*, and *Re C. de Murietta*, all reported in 3 Manson, were quoted in support of the arguments as overruling the decision in *Re Otway*.

In the end no judgment was given, it being arranged that the matter should stand over for ten days to enable the parties to make terms.

(Reported by W. H. Terry, Esq., Barrister-at-Law.)

DIVISIONAL COURT IN BANKRUPTCY.

July 5.

(Before BIGHAM and SUTTON, JJ.)

*Ex parte The Debtors v. The Judgment Creditors.**Bankruptcy Notice.*

An appeal from the County Court of Liverpool to reverse the decision of that Court in refusing to set aside a bankruptcy notice.

F. E. Smith, M.P., stated that his clients—a well-known Liverpool firm—had large connections with South America, and had had contracts with the respondents for shipment of their goods to the West Coast. Disputes arose on the account sales, and litigation followed, both in Scotland and this country. The respondents—a Scotch firm—eventually obtained judgment, culminating in the bankruptcy notice which it was now sought to set aside. The main grounds for the application were that an appeal was about to be heard in the House of Lords, and that the debtors having a counter-claim were entitled to the benefit of subsection (g) of section 4 of the Bankruptcy Act, 1883.

JUDGMENT.

The Court held that they knew nothing as to the merits of the pending appeal to the House of Lords, and therefore dismissed this appeal, but gave permission for further appeal on the points before them.

(Reported by W. H. Terry, Esq., Barrister-at-Law.)

Company Law.**COURT OF APPEAL.**

June 28.

(Before VAUGHAN WILLIAMS, ROMER, and MOULTON, L.JJ.)

In re The English and Colonial Produce Company, Ltd.

Company—Contract before Formation—Company having benefit of Contract—Liability—Companies Act, 1862 (25 & 26 Vict. c. 89), s. 17

This was an appeal from a decision of Mr. Justice Buckley's on a summons by a firm of solicitors to review the

taxation of a bill of costs, which raised a question of some importance as to the liability of a company to pay for work done before its formation and for fees paid on registration. The company (which is hereinafter called the Produce Company) was formed to take over the business of a previous company (which is hereinafter called the Forage Company) and the business of a firm of Porrett & Meyer. The Forage Company went into liquidation before the formation of the Produce Company. The Produce Company was incorporated on November 9 1901, under the Companies Acts, 1862 to 1900, and was ordered to be wound up in July 1902. Article 109 of the articles of association provided that the company should be managed by the directors, who might pay all such expenses of and preliminary and incidental to the formation, establishment, and registration of the company as they might think fit. In accordance with the directions of Mr. Justice Kekewich in an action brought by the Produce Company against a firm of Dyson, Smith & Marchand, solicitors, the firm lodged certain bills of costs in the winding-up proceedings. One of these bills of costs contained an item of £160 for preparing and having executed the memorandum and articles of association and doing other things necessary to enable the company to commence business, £16 10s. for counsel's fees for settling these documents, £2 2s. for drawing and approving form of certificate and instructing printer to print same, and £33 12s. 6d. for fees on registration of the company. The Registrar, on taxation, disallowed these items, amounting altogether to £216 14s. 6d., on the ground that the costs of registration appeared to have been authorised by certain persons who afterwards joined the board of directors, but that, though the company had power to pay, they took no steps to pass a resolution to that effect. The solicitor took out a summons against the liquidator of the Produce Company to review this taxation. Mr. Justice Buckley held that, as by Section 17 of the Companies Act, 1862, the Produce Company was liable for the fees on registration, the solicitors were entitled to be allowed the item of £33 12s. 6d. as being disbursements made on behalf of the company, but as regards the other items he was of opinion that the Registrar was right. The solicitors appealed in order to have the certificate further varied by allowing them the full sum of £216 14s. 6d.

JUDGMENT.

The Court was of opinion that the solicitors, having been actually instructed by certain gentlemen, who afterwards joined the board of the Produce Company, to do the work in connection with the formation of the company, must look for their fees to those who instructed them, and that the Produce Company were not liable in respect of these items, but that, as it appeared that the company had actually paid the solicitors £100 in respect of work done in connection

with the formation the solicitors were entitled to appropriate this payment in respect of those items. The taxation must be referred back to the Registrar to review on this footing, and there would be no order as to costs.

Lord Justice Vaughan Williams said that he wished to say one word about the proposition put forward by Mr. Gore-Browne, for which the case of *In re Hereford and South Wales Waggon and Engineering Company* (2 Ch.D., 621), was cited as an authority. It was said that if expenses were incurred before the formation of a company and the company took the benefit of the work done, then, although the company was not in existence at the date when the expenses were incurred and could have no agents authorised to incur expenses on its behalf, and, consequently, was not liable to be sued at law, yet it incurred some liability in equity. The words of Lord Justice Mellish, who delivered the judgment of the Court, were:—"We think, however, that if the company can properly be considered to have adopted and derived benefit from these services, they would in equity be bound to pay for them, and Mr. Head and Mr. Walter would be entitled to prove for them." Those words, perhaps, did look as if they would cover the proposition that in the event of adoption and taking the benefit of work done a new company would be liable under contracts made before it came into existence. His Lordship thought, however, that they ought to look at the actual judgment in that case. It was a case in which, even supposing that there was a possibility of asserting such a liability against the company, the company had a complete answer by reason of fraudulent concealment. His Lordship thought that all that the Court of Appeal did in the case of *In re Hereford and South Wales Waggon Engineering Company* was to decide not that there was any such liability, but that, assuming such a liability to exist, it could not possibly be enforced in the circumstances of that case. He recognised that the case of *In re Hereford and South Wales Waggon and Engineering Company* had been cited in subsequent cases as an authority for the proposition that a company might be liable in equity for services rendered before its formation. But in none of these cases had that proposition been affirmed. It had been explained and not applied and the explanation in every case had been different. In the circumstances his Lordship thought that the Court was prepared to find that there was no binding authority for the proposition that because a company took the benefit of work done under a contract it could be held liable for expenses incurred before its formation. On the contrary, the authorities were the other way. It was true that on the facts of the present case it was not necessary to decide what was the effect of the decision in the *Hereford* case; but it had been stated in argument that in the text-books that case was cited as an authority for the proposition that a company which had adopted and had the benefit of services rendered before its formation would in equity be bound to pay for them, and his Lordship did not think that the case was an authority for that proposition.

Lord Justice Romer and Lord Justice Moulton delivered judgments to the same effect.

CHANCERY DIVISION.

June 26.

(Before BUCKLEY, J.)

*Re Vickers, Maxim & Co.**Alteration of Memorandum of Association.*

A petition for confirmation of a resolution for the alteration of the company's memorandum of association under the Companies Memorandum of Association Act, 1890, for carrying on the business more efficiently and for powers to extend the company's operations.

Counsel explained that the company had been formed for a number of years and was in a large way of business as builders of ships of war and Government contractors, but that it frequently lost the benefit of business through being unable to guarantee the payment of principal and interest on debentures and dividends on shares in companies, mostly of a subsidiary character, with which it had interests or contractual relations.

JUDGMENT.

His Lordship confirmed the resolution, being satisfied that proper notices had been given to the debenture-holders, and there being no opposition on the part of creditors, and it appearing that the rights of members would not be injuriously affected by the alteration.

(Reported by W. H. Terry, Esq., Barrister-at-Law.)

CHANCERY DIVISION.

June 28.

(Before BUCKLEY, J.)

In re London Electrobus Company, Lim.

Company—Register—Rectification—Misrepresentation in Prospectus—Application to Remove Names of Shareholders from Register—Ex parte Application.

This was an application by originating motion on behalf of the company, asking that the Register of Members of the company might be rectified by removing therefrom the names of the shareholders mentioned in the schedule annexed to the notice of motion, on the ground that those shareholders had been induced to apply for their shares by misrepresentations in a prospectus issued by the company. The case was remarkable in some respects, inasmuch as the shareholders affected numbered 1,026, and held about 48,000 shares in the company amongst them. To save expense, therefore, the application to remove their names was made *ex parte*. In some cases the amounts paid by them to the company in respect of their shares had already been returned to them.

JUDGMENT.

Mr. Justice Buckley made an order to the effect following:—Order that the Register of Members of the company be rectified by striking out the names of the persons whose names are stated in the first column of the schedule

hereto in respect of the shares respectively set opposite their names in the second column of the said schedule, and that the company do pay to such shareholders respectively the sums set opposite their respective names in the third column of the said schedule except in those cases in which it appears by the evidence that such sums have been paid prior to the date hereof. This order to lie in the Registrar's office for three weeks from June 28 1906, and notice in writing to be sent personally or by post to each of the several shareholders mentioned in the said schedule, such notice to state that an order has been made rectifying the register by striking his name out and for payment (when payment is ordered) of the amount [naming it] ordered to be paid to him, and that such order is not to be delivered out of the Registrar's office for three weeks from the date thereof, and that in the meantime he is at liberty to apply to the Court in case he objects to the same. Liberty to apply.

(22 Times Law Reports, 677.)

CHANCERY DIVISION.

July 3.

(Before BUCKLEY, J.)

In re The Otto Electrical Manufacturing Company (1905), Lim.

Company—Date when Entitled to Commence Business—Contracts Previous to that Date—Contracts Provisional Only—Contracts for Preliminary Expenses—Companies Act, 1900 (63 & 64 Vict. c. 48), s. 6 (3).

The company was incorporated in May 1905, but never became entitled to commence business, since no shares were allotted and no capital was paid up. It was now in liquidation. Mr. A. Jenkins was a claimant in respect of sums alleged to have been expended by him at the request of the directors for various preliminary expenses, such as the taking and furnishing of a temporary office. This was a summons taken out by the liquidator in the winding-up for the determination of the question whether these claims should be allowed in view of section 6 of the Companies Act, 1900, subsection (3) of which enacts that any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company till that date, and on that date shall become binding.

Ward Coldridge, for the claimant, contended that the subsection applied only to contracts entered into for the carrying on of the business of the company, and not to preliminary expenses necessary to enable the business to be entered upon, contracts relating to which were binding on the company.

JUDGMENT.

Buckley, J., said that all the contracts of the company must be for the purposes of its business in some form or

other, since the carrying on of its business was the only purpose of its existence. Whether the contract was preliminary or final or one in the course of carrying on its business made no difference. The contracts, therefore, were not binding on the company, and the claims must be disallowed.

(L.J. 477.)

CHANCERY DIVISION.

July 13.

(Before KEKEWICH, J.)

Blake v. Smither.

Friendly Society—Unregistered Society—Winding-up—Jurisdiction of Court—Majority.

The question in this case was as to the jurisdiction and discretion of the Court to order the dissolution or winding-up of an unregistered friendly society.

The plaintiffs represented 17 members of a society known as the Friendship in Unity Benefit Society of Westerham Hill, Kent. The present number of members was 49, and the funds of the society amounted at the present time to £476. During the last few years, that is, from about the year 1888, the number of members and the funds of the society have both greatly decreased, the members formerly being 88, and the funds formerly amounting to £923. It appeared that the expenditure had been greater than the receipts for many years, and that no new members had been elected for some considerable time. The rules of the society provided, amongst other things, by rule 7 that the stewards should attend all meetings and should enforce harmony and good order among the members, and, if any dispute should arise, the stewards should impose silence and permit one member only to speak at a time, and when the debate was over they should cause the subject to be determined by a poll "at which a single majority should be sufficient." In June 1905 notice was given that a meeting would be held to decide whether the society should continue to be carried on or not. At the meeting, the defendant Smither, who was one of the trustees, being in the chair, a resolution was passed by a majority of one that the society should be dissolved. There were present at such meeting only 27 members, and the chairman did not vote. Subsequently in August 1905 a committee meeting was held, and at the suggestion of the trustees the committee decided to continue the society. A general meeting was then held in September at which 32 members attended and paid their subscriptions, amongst such members being some of the plaintiffs. It appeared that seven persons had desired to become members during the last two years. In November 1905

the writ was issued claiming a dissolution of the society and distribution of its assets.

JUDGMENT.

Mr. Justice Kekewich, giving judgment, said that the Court was asked to dissolve an unregistered friendly society. About the Court's jurisdiction to do so there was no doubt. It had been done by Mr. Justice Warrington in the case of *In re Lead Company's Workmen's Fund Society*, and, unless his Lordship was mistaken, the question had been discussed and decided in a case before Vice-Chancellor Page Wood many years ago. But the real question in this case was whether the Court ought to interfere. In the case before Mr. Justice Warrington the learned Judge clearly thought that it was a case for winding-up. But in that case there was an overwhelming majority in favour of dissolution, and it could be gathered from observations in the judgment that he thought that unless he interfered justice would not be done. In the present case there was no provision in the rules for winding up the society, and unless the members could agree there could be no dissolution, except by an order of the Court. It was said on behalf of the plaintiffs that a majority of the members could decide upon a dissolution, and counsel cited the judgment of Lord Esher, M.R., in *M'Kenny v. Corporation of Barnsley*, in support of that proposition. Rule 7 of the society's rules applied only to the affairs of the living society and not to a dissolution and distribution of the funds. The case cited had no application here. The Court could not lay down any general rule as to what would justify the Court's interference in these cases. It was not tied down to the rule governing the dissolution of partnerships; but that rule was, no doubt, a guide as to how the power of the Court ought to be exercised. Roughly speaking, the Court ought not to interfere unless there was a practical impossibility of the society continuing. No such impossibility had been proved here. A meeting had been called, and the question of dissolution had been put to the meeting, and dissolution had been decided upon by a majority of one. In the case before Mr. Justice Warrington there was a large majority. Here there was only a majority of one at a meeting which was not largely attended, only 27 members being present. Subsequently the committee met and decided to continue the society. There was a considerable fund in hand, and several persons had expressed their willingness to become members. Further, only 14 out of 49 members had voted for dissolution. Under those circumstances it seemed to the Court that, so far from there being sufficient reason for a dissolution, there was every reason why the society should go on. The Court had jurisdiction to interfere in a proper case, but there was no reason to interfere here, and the jurisdiction ought not to be exercised. The action would be dismissed with costs.

(22 Times Law Reports, 698.)

Law Reports.

Company Law.

HOUSE OF LORDS.

July 19.

(Before Lord LOREBURN, L.C., Lord MACNAGHTEN, Lord DAVEY, Lord JAMES OF HEREFORD, Lord ROBERTSON, and Lord ATKINSON.)

Ruben & Ladenburg v. Great Fingall Consolidated, Lim.

Company—Shares—Certificate—Forgery—Estoppel—Companies Act, 1862 (25 & 26 Vict. c. 89), s. 31.

This was an appeal from a judgment of the Court of Appeal (the Master of the Rolls and Lords Justices Stirling and Mathew), reversing the decision of Mr. Justice Kennedy, in an action in which the appellants were plaintiffs and the respondents defendants. The question was the familiar one as to which of two innocent persons was to bear a loss occasioned by the fraud of a third—the third person being, in this instance, the secretary of the respondent company. The facts are concisely, but sufficiently, stated in the Lord Chancellor's judgment. The case is reported 20 *The Times* L.R. 720; (1904) 2 K.B. 712; 73 L.J. K.B. 872. The arguments were heard on June 14, 15, and 18 last.

JUDGMENT.

The Lord Chancellor: My Lords, in this case Mr. Justice Kennedy gave judgment in favour of the plaintiffs, but stated that his decision was governed entirely by the authority of a previous case, and that his own opinion was in favour of the defendants. The Court of Appeal gave judgment in favour of the defendants, and, in my opinion, they arrived at a right conclusion. The question arises out of the fraud and forgery of a man named Rowe. Rowe was secretary of the defendant company. He applied to the plaintiffs, who are stockbrokers, to procure for him a loan of £20,000 in order to enable him to purchase 5,000 shares in the defendant company. Accordingly the plaintiffs arranged with a firm of bankers to advance the money upon a transfer of the shares to their names. Rowe forged a transfer in the name of one Story as transferor. The transfer was duly executed by the bankers as transferees. And then the plaintiffs delivered it to Rowe in exchange for a certificate. The certificate purported to state that the bankers were the registered proprietors of 5,000 shares; it purported to be signed by two directors, the seal was affixed to it, and it was countersigned by Rowe

himself as secretary. In fact, the names of the two directors were forged by Rowe, and the company's seal was affixed by Rowe fraudulently, and not for or on behalf of or for the benefit of the defendant company, but solely for himself and for his own private purposes and advantage. Upon this the bankers advanced £20,000. When the fraud was discovered the plaintiffs were obliged to repay to the bank the sum of £20,000, and brought this action against the defendant company upon the ground that they were liable for the fraud of Rowe. The only other circumstance needing notice is that Rowe was admittedly a proper person to deliver certificates on behalf of the company. I cannot see upon what principle your Lordships can hold that the defendants are liable in this action. The forged certificate is a pure nullity. It is quite true that persons dealing with limited liability companies are not bound to inquire into their indoor management, and will not be affected by irregularities of which they had no notice. But this doctrine, which is well established, applies only to irregularities that otherwise might affect a genuine transaction. It cannot apply to a forgery. Another ground was pressed upon us—namely, that this certificate was delivered by Rowe in the course of his employment, and that delivery imported a representation or warranty that the certificate was genuine. He had not nor was held out as having authority to make any such representation or give any such warranty. And certainly no such authority arises from the simple fact that he held the office of secretary and was a proper person to deliver certificates. Nor am I able to see how the defendant company is estopped from disputing the genuineness of this certificate. That indeed is only another way of stating the same contention. From beginning to end the company itself and its officers, with the exception of the secretary, had nothing to do either with the preparation or issue of the document. No precedent has been quoted in support of the plaintiffs' contention, except the case of *Show v. Port Philip and Colonial Gold Mining Company* (1884, 13 Q.B.D. 103; 53 L.J. Q.B. 369). I agree with Lord Justice Stirling in regarding that decision as one that may possibly be upheld upon the supposition that the secretary there was in fact held out as having authority to warrant the genuineness of a certificate. If that be not so, then, in my opinion, the decision cannot be sustained. For these reasons the judgment of the Court of Appeal ought to be affirmed.

Lord Macnaghten: This case was argued at some length and with much ingenuity by the learned counsel for the appellants. In my opinion there is nothing in it. Ruben and Ladenburg are the victims of a wicked fraud. No fault has been found with their conduct. But their claim against the respondent company is, I think, simply absurd. The thing put forward as the foundation of their claim is

piece of paper which purports to be a certificate of shares in the company. This paper is false and fraudulent from beginning to end. The representation of the company's seal which appears upon it, though made by the impression of the real seal of the company, is counterfeit and no better than a forgery. The signatures of the two directors which purport to authenticate the sealing are forgeries pure and simple, and every statement in the document is a lie. The only thing real about it is the signature of the secretary of the company, who was the sole author and perpetrator of the fraud. No one would suggest that this fraudulent certificate could of itself give rise to any right or bind or affect the company in any way. It is not the company's deed, and there is nothing to prevent the company from saying so. Then how can the company be bound or affected by it? The directors have never said or done anything to represent or lead to the belief that this thing was the company's deed. Without such a representation there can be no estoppel. The fact that this fraudulent certificate was concocted in the company's office, and was uttered and sent forth by its author from the place of its origin cannot give it an efficacy which it does not intrinsically possess. The secretary of the company, who is a mere servant, may be the proper hand to deliver out certificates which the company issues in due course, but he can have no authority to guarantee the genuineness or validity of a document which is not the deed of the company. I could have understood a claim on the part of the appellants if it were incumbent on the company to lock up their seal and guard it as if it were a dangerous beast, and as if it were culpable carelessness on the part of the directors to commit the care of the seal to their secretary or any other official. That is a view which once commended itself to a jury, but it has been disposed of for good and all by the case of *Bank of Ireland v. Trustees of Evans's Charities* (1855, 5 H.L.C. 389) in this House. Of all the numerous cases that were cited in the opening, none, I think, is to the point but *Shaw v. Port Philip and Colonial Gold Mining Company*, and that, as it seems to me, cannot be supported unless a forced and unreasonable construction is to be placed on the admissions which were made by the parties in that action. I think the appeal must be dismissed with costs.

Lord Davey: My Lords, to use the language of a distinguished Judge of the last generation, the appellants' case seems to me as full of holes as a colander. There is not a step in their title which is not tainted, with fraud going to the root of it. Story, whose name was used as transferor, had not 5,000 shares to transfer, and his name was forged to the transfer. There were, therefore, no shares, and there was no transfer. The seal on the certificate was, indeed, a genuine impression of the company's seal, but it was placed there without any authority, and

(as concisely stated by Lord Lindley in his work on Companies, 6th edition, p. 246) a document of that kind, "if there is any intent to defraud, is a forged instrument." The signatures of the two directors who purported to countersign were also forgeries. The appellants have, no doubt, been grossly defrauded, but the question is whether they can shift the loss on to the shoulders of the innocent. The company has done literally nothing in the transaction, and could do nothing, because in no stage of the transaction did it come before the board of directors, which alone was entitled to speak and act for it. It is admitted that Rowe was the proper person to deliver certificates to those entitled to them. From this harmless proposition the appellants slide into another and a very different one, that it was the secretary's duty to warrant on behalf of the company the genuineness of the documents he delivered. There is no evidence that any such duty or power was, in fact, entrusted to Rowe, and it is too great a strain on my powers to ask me to imply it from the mere fact of his being the secretary or the proper person to deliver documents. But even if I could make the implication that the appellants desire I do not think it would assist them, for I agree with the learned Judges in the Court of Appeal, that every part of the legal proposition stated by Mr. Justice Willes in his well-known judgment in *Barwick v. English Joint Stock Bank* (1867, L.R. 2 Ex. 259, at p. 265; 36 L.J. Ex. 147, at p. 149) is of the essence of it. Mr. Justice Willes's words are these:—"The general rule is "that the master is answerable for every such wrong of the "servant or agent as is committed in the course of the "service and for the master's benefit." Where, therefore, (as in the present case), the secretary is acting fraudulently for his own illegal purposes, no representation by him relating to the matter will bind his employers. And in my opinion it would be a matter of reproach if the law were otherwise. The reason for the qualification, I suppose, is that a representation made under such circumstances, whether express or implied, is also part of the same fraud, and cannot rightly be considered to be made by the servant as agent or on behalf of his master. Finally, it is, in my opinion, open to serious doubt whether, on the facts of the present case, the parties relied on Rowe's representation at all. The evidence indicates that they refused to do so because they declined to part with their money on Rowe's certifying the transfer (as it is called), and if they acted in reliance on the certificate apart from any representation, their case, of course, fails, for nobody can pretend that the certificate itself created any estoppel against the company. I guard myself from expressing any opinion whether, even if the certificate had been genuine, but issued under some innocent mistake, it would have been an estoppel in favour of the present appellants. It will be remembered that the appellants themselves pro-

pounded the forged transfer to the company for registration of the supposed transferees' names. I share the doubt expressed by my noble and learned friend Lord Macnaghten in *Balkis Consolidated Company v. Tomkinson* (1893, A.C. 396; 63 L.J. Q.B. 134), "Whether under such circumstances a person ought to be permitted to rely upon a representation innocently made to which he has in a sense and to a certain extent contributed." The recent decision of this House in *Mayor, &c. of Sheffield v. Barclay* (21 *The Times* L.R. 642; (1905) A.C. 392; 74 L.J. K.B. 747) may be found to have some bearing upon this point. It is, however, unnecessary to express any opinion upon it on the present occasion. I am of opinion that the appeal should be dismissed.

Lord James of Hereford, Lord Robertson, and Lord Atkinson concurred.

(22 *Times Law Reports*, 712.)

Miscellaneous.

COURT OF APPEAL.

July 11.

(Before COLLINS, M.R., and COZENS-HARDY, L.J.)

Greener v. Kahn & Co., Lim.

Practice—Security for Costs—Costs of Action—Trustee of Deed for Creditors—Insolvent Plaintiff.

This was an appeal from the refusal of Mr. Justice Phillimore to order that the plaintiff should give security for the costs of the action. The plaintiff was the trustee of the creditors of one Harris Goldberg under a deed of assignment, and the action was brought in respect of goods sold and delivered by Goldberg to the defendants and goods sold and delivered by the plaintiff to the defendants since he had been carrying on Goldberg's business for the benefit of the creditors. The plaintiff himself had been adjudicated bankrupt. By the deed Goldberg conveyed to the plaintiff all his property upon trust to sell the same and collect the debts and call in the remainder of the estate, and out of the moneys to arise therefrom in the first place to pay the expenses of the sale, calling in, and conversion, and in the next place to pay the costs of the deed and all other expenses incurred in or about the execution of the trusts thereof, and then to pay and divide the residue unto and among Goldberg's creditors who should execute or assent to the deed; and the creditors, parties to the deed, thereby released Goldberg from the debts due to them. The defendant applied for an order that the plaintiff should give security for costs on the ground that he was suing in the capacity of a trustee and solely for the benefit of other persons and was

insolvent. Mr. Justice Phillimore refused to make an order. The defendants appealed. It was contended in support of the appeal that it was a well-established rule that an insolvent plaintiff, who was not suing for his own benefit, must give security. In *Malcolm v. Hodgkinson* (L.R. 8 Q.B. 209) Lord Blackburn said:—"Where an insolvent person is suing as trustee for another, it has long been the rule to require security for costs." The only exceptions to that rule were the cases of a trustee in bankruptcy, an executor, and a liquidator—*Cowell v. Taylor* (31 Ch.D. 34), *Sykes v. Sykes* (L.R. 4 C.P. 645), *Lloyd v. Hathern Station Brick Company, Lim.* (85 L.T. 158), *In re Strand Wood Company, Lim.* (1904, 2 Ch. 1). The plaintiff's position was different from that of a trustee in bankruptcy. A trustee in bankruptcy had statutory duties to perform, and acted under the control of the Court, and, if he himself became bankrupt, he would be removed by the Court. The plaintiff had no statutory duties to perform. It was contended on behalf of the plaintiff that it was impossible to say that the plaintiff had no interest in the action. One of the trusts of the deed was that the plaintiff should retain out of the assets all the costs of carrying the deed into effect and all other expenses incurred in the execution of the trusts. There was no reason why the plaintiff should be ordered to give security for costs. The exemption was not confined to persons having statutory duties to perform. It was admitted that an executor was exempt, but an executor's duties were not statutory. Reference was made to *Blackett v. Blackett and Frail* (1902, p. 170).

JUDGMENT.

The Court allowed the appeal.

The Master of the Rolls said that this was an appeal from a decision of Mr. Justice Phillimore, who refused to order the plaintiff to give security for costs. The case was a somewhat peculiar one, and they were told that there was no decision directly in point. The plaintiff, Greener, was himself an undischarged bankrupt, and, whether for that reason or not he did not know, he had been selected by one Harris Goldberg as his trustee under a deed of assignment for the benefit of his creditors. By this deed Goldberg, being in a state of insolvency, assigned all his assets to Greener to distribute among his creditors, and Greener brought this action against Kahn & Co. in respect of a debt due from Kahn & Co. to Goldberg, the assignor. The defendants applied for an order that the plaintiff should give security for costs. The question was whether security ought to be ordered. It was pointed out on the part of the defendants that the plaintiff was a mere trustee without any interest in the subject-matter of the claim, and it was said that this was an ordinary case of a person who was a mere shadow and not a substance putting in suit a claim on behalf of other persons, and that it therefore came within the rule

to giving security for costs, and that security ought to be ordered. On the other hand, it was pointed out on the part of the plaintiff that there were certain well-known exceptions to the rule, and that security was not ordered in the case of a trustee in bankruptcy, or an executor, or a liquidator whether in a voluntary or a compulsory winding-up. The question was whether the plaintiff came within the exceptions. It seemed to him that he did not. No authority had been cited to show that he did. The plaintiff was in no better position than if there had been only one person for whom he was acting as trustee or for whom he was putting a claim in suit. His position was none the better because there was more than one such person. On the face of his mandate he was trustee for the assignor, but he had to distribute the assignor's assets and to pay his debts, and in that sense he was trustee for the creditors of the assignor. The leading case was *Cowell v. Taylor*. There Lord Justice Bowen said:—"The general rule is that poverty is no bar to a litigant; that from time immemorial has been the rule at common law, and also, I believe, in equity. There is an exception in the case of appeals, but there the appellant has had the benefit of a decision by one of Her Majesty's Courts, and so an insolvent party is not excluded from the Courts, but only prevented, if he cannot find security, from dragging his opponent from one Court to another. There is also an exception introduced, in order to prevent abuse, that if an insolvent sues as nominal plaintiff for the benefit of somebody else he must give security. In that case the nominal plaintiff is a mere shadow. The two most familiar classes of cases of this kind are cases where a person has divested himself of his interest and handed it over to some one else that the transferee may sue for him, and cases where a person who has commenced a suit divests himself of his interest during the course of the suit in order that another person may carry it on for his benefit. Those are the common cases; I do not say that there may not be others. In those cases Courts of common law required security for costs to be given." The Lord Justice then

referred to the cases on the subject, and said that the question the Court had then to determine was whether security should be required in the case of a plaintiff who was himself insolvent and sued as the trustee in bankruptcy of an insolvent estate. He said that a trustee in bankruptcy was not a mere shadow, that he was a person who had a duty to perform—that of getting in the estate. He added:—"Then there has been an established practice both at law and in equity to allow a trustee in bankruptcy to sue without giving security for costs"; and he proceeded to refer to the case of *Sykes v. Sykes*. A liquidator had been held to be entitled to the same exemption. Now was there any reason why an assignee who derived his rights from acts *inter partes* should come within the exemption which had been held to be applicable to a trustee in bankruptcy and a liquidator? He saw no reason why such an assignee should have the benefit of the exemption. On the contrary, he seemed to come within one or other of the two classes of cases in which Lord Justice Bowen said that security would be ordered. How could such an assignee claim the immunity of a trustee in bankruptcy? The exemption was not applicable to a trustee like the plaintiff. A trustee in bankruptcy was a statutory person; he was appointed to perform certain statutory duties under the mandate of the Legislature itself. The reasons for exempting him from giving security did not apply to a person who derived his mandate solely from the will of other persons. He did not know why Goldberg had selected the plaintiff to be his trustee unless it were for the common sympathy which might naturally be expected to bring together a man who was in danger of bankruptcy and a man who had already become bankrupt. At any rate, in his opinion the exemption was not applicable, and the case ought to be treated as one of a man of straw suing on behalf of another man of straw. The appeal would therefore be allowed.

Lord Justice Cozens-Hardy delivered judgment to the same effect.

(22 *Times Law Reports*, 694.)

Law Reports.

Accountancy and Auditing.

HASTINGS COUNTY COURT.

July 9 and 30.

(Before His Honour Judge SCULLY.)

Stevenson v. Bexhill Corporation.

Elective Auditor's Duties.

This was an action brought by Mr. Joseph Henry Stevenson, one of the elective auditors for the borough of Bexhill, against the Mayor and Corporation of Bexhill, to recover certain fees he stated he had earned in his capacity as auditor.

Mr. Willett, in opening the case, said the action was brought by one of the elective auditors of the borough of Bexhill to recover the sum of £19 8s. 6d., his fees as elective auditor for the auditing of the accounts of the Corporation for the half-year ended September 30 last, at the rate of two guineas per day for 9½ days. He (Mr. Willett) said he hoped his Honour would regard the case not so much as a matter as to whether a private individual was going to receive his salary of a number of guineas for work done honestly and to the best of his ability, but rather as a question of great importance. Because it was a question as to whether the accounts of the Corporation were to be properly audited by the representatives of the ratepayers, or to be simply glanced over by any needy men who were content to accept any pittance the Corporation were prepared to offer them. Elective auditors were appointed under the provisions of section 25 of the Municipal Corporations Act, 1882, which set forth that there should be two elective auditors elected from among the burgesses. They must be elected by the ratepayers, and must not be members of the Council. Section 26 of the Municipal Corporations Act said the Treasurer should make up his accounts half-yearly on such days as the Council with the approval of the Local Government Board appointed. Section 27 said the necessary vouchers should be submitted to the auditors, by whom they must be audited. Schedule 5 of the Municipal Corporations Act did say that the Council had power to remunerate their officers out of the Borough Fund, but there was no specific arrangement in the Act as to the remuneration they were to pay. But the Public Health Act, 1875, section 246, enacted that auditors in respect of such audit should be paid such reasonable remuneration not being less than two guineas for every day of the audit. The Bexhill Council seem to have taken a very peculiar view of the meaning of that section. They seemed to have thought that

they had the power to appoint the number of days the auditors should take in auditing the accounts, but he contended that if the Council had the power to appoint the number of the days of each audit, the whole object of the Legislature would be nullified. Thus, the Council would be able to oust the representatives of the ratepayers, and prevent them going properly through the accounts. It seemed to him that it was quite clear that what the section meant was that the Council had the power to appoint the remuneration, but it was limited there, because it must not be less than two guineas a day. The Council could not appoint the remuneration to be one guinea a day. On September 25 1905 the Council passed a resolution to the effect that in view of the proposed engagement of a Chartered Accountant to audit the accounts of the Council, that so long as the professional audit was conducted, the Council appoint reasonable remuneration to each auditor, the same not to exceed five guineas for each audit. That resolution, said Mr. Willett, was quite *ultra vires*, because the Council had no power to appoint the amount of the remuneration at a sum lower than two guineas a day, and they had no power to appoint the number of days the auditors should take in the audit. He did not suggest that the auditors should take any number of days they liked, but that was a matter for his Honour to decide. The Council contended on the case of *Thomas v. Devonport*, reported in the 1900 Law Reports, that the auditors were only entitled to be remunerated for that part of the accounts of the Council which related to their finances as an urban sanitary authority under the Public Health Act. In the first place the plaintiffs' claim in the present case was in contract. Mr. Stevenson had been elective auditor for the borough of Bexhill ever since the borough was incorporated in 1902. He was first elected on March 1 1903. On every occasion since then he had always had placed before him, with the other auditors, the whole of the accounts of the Corporation. Every book and every voucher had been placed before him regardless of whether it was necessary under the Public Health Act or not. When he had completed the audit, he had always received two guineas for every day in which he had been engaged auditing the whole of the accounts. This was done at Hastings and other towns, and Mr. Stevenson was actually paid two guineas per day ever since his election. Upon this the claim was founded. He was elected on March 1 1905, and he audited the accounts up till March 31 1905, and he was paid at the rate of two guineas per day for that. It was only on September 25 1905, a long time after his election, that any suggestion was made that the Council could pay less than the amount it was understood was to be the amount payable to the elective auditors at the time he was elected. It was like engaging a servant for a year. He did the work for half a-year and was paid for that, and his employer then

said he would pay him less for the remainder of the year. Mr. Stevenson could not resign. His duty to the ratepayers was to do the work he had been elected to do, and therefore he considered that in contract he was entitled to claim the whole amount.

The Judge: He is dealing with the corporation of a borough. They cannot deal with him as a private individual. Their power is rather limited.

Mr. Willett said the Council had power to pay the money out of another fund. Schedule 5 of section 19 of the Municipal Corporations Act said that the Council had power to appoint such other officers as were usually appointed in the borough or as the Council thought necessary.

Mr. Rodgers: Are you going to prove the appointment?

Mr. Willett: Do I understand the Town Clerk contends that Mr. Stevenson has never been appointed elective auditor for the borough of Bexhill?

The Judge: What is the section you are referring to?

Mr. Willett: I grant that it does say "officers appointed by the Council," but surely—

The Judge: This gentleman was not appointed by the Council. He is not an officer of the Council. He is the representative of the ratepayers as distinguished from an officer of the Council. His Honour then read an extract from the judgment of Lord Russell in the case of *Thomas v. Devonport*. Lord Russell said the plaintiff was not a servant of the Corporation. He was elected by the burgesses of the borough, and therefore he had no claim against the Corporation in respect of his services as elective auditor.

Mr. Rodgers (to Mr. Willett): Do I understand that you abandon the case of contract?

Mr. Willett: If his Honour is against me—

The Judge: It is my opinion, but it does not conclude you. (Laughter.)

Mr. Willett: I prefer the case to be decided under the Public Health Act. Continuing, Mr. Willett said that in all towns there was a Borough Fund. In Devonport the rents of the corporate property went to the Borough Fund. In a modern borough like Bexhill, however, there was no Borough Fund. They had no corporate property excepting the Town Hall and the Electric Light Works. Accordingly, the amount represented by "the Borough Fund" was the minutest, and he said that any man could audit the accounts of a corporation, so far as they related to the duties of a corporation as distinct from the duties of an urban sanitary authority, in a couple of hours. The Bank Pass Books, the Treasurer's books, and the Borough Fund books, took up two pages, while the other Pass Books of the Corporation took up just 50 pages. The General District Fund Loan account took 30 pages, the Treasurer's Borough Fund

Account a paltry five pages, and the General Account 36 pages. He was not touching the Sanitary, Electric Light, and a number of other accounts.

Mr. Rodgers said he admitted that two hours was sufficient for the Borough Fund, &c., if that would help his friend.

Mr. Willett, continuing, said that the whole of the other accounts of the Corporation were, within the meaning of this section of the Public Health Act, accounts of the receipts and expenditure under this Act, and that was what they were entitled to remuneration for auditing. Mr. Willett then took the accounts of various Committees, whose works were carried out under the Public Health Act. He referred to the Cemetery, and Parks and Pleasure Grounds Committee, to the allotments of the Corporation and the electric lighting.

The Judge asked for a table of the various heads of the audit.

Mr. Willett said he had a list of the books submitted to the elective auditors, and supplied by the Town Clerk. The Town Clerk and he were agreed that the only part of the audit for which they were not entitled to remuneration was the Borough Fund.

Mr. Rodgers: Quite so.

Mr. Willett: And also that it would only take two hours.

Mr. Rodgers: Yes.

The Judge: Is the real dispute as to time?

Mr. Rodgers: That is it entirely. It is a simple issue.

The Judge: It may be a simple issue as regards words, but it is not to decide. (Laughter.)

Mr. Willett said the audit had always taken three auditors between five or seven days.

Mr. Rodgers said he gathered from his friend's opening that there was this difference between them. Mr. Willett regarded this audit as a full and ample audit of all the books of the Corporation. But the *Devonport* case showed that the audit was strictly limited. The issue was as to whether the auditors were entitled to audit more than the Borough Treasurer's accounts. The judgment of Lord Justice Russell said the audit was a strictly limited one, and was not an audit of the doings of the various Committees, but simply an audit of their Borough Treasurer as an accounting officer. Lord Justice Russell did not approve of all the language used by Mr. Justice Phillimore, but he did not in any way qualify the language which had just been read. He himself referred to the audit as an audit only of the Borough Treasurer, who was an official distinctly apart from the Corporation, and whose books were a set of books altogether outside the books of the Corporation.

Mr. Willett contended that Lord Russell's judgment did qualify this part of Justice Phillimore's remarks, when the former said the audit was incomplete and imperfect.

Mr. Rodgers: That does not in any way qualify the language.

The Judge said that did not enlarge the scope of the audit as defined by Mr. Justice Phillimore. Lord Russell simply

said it was within the competence of the auditor to satisfy himself that the payments were legal and regular. He did not go beyond auditing the accounts of the Borough Treasurer.

Mr. Willett argued that that enormously extended the scope of the audit.

The Judge said of course the auditor had the right to call for evidence, but that did not enlarge the scope of the audit. It did not turn the audit from an audit of the Treasurer's books to an audit of all the books of the Corporation.

Mr. Rodgers: That is my point.

Mr. Willett: I do submit we are bound to audit all the books of the Corporation.

Mr. Rodgers said he thought time would be saved if at that stage they decided what was the extent of the audit. Section 246 of the Public Health Act stated that where the authority was a Corporation the accounts should be audited by the borough auditors, and the auditors should have like duties, as if they were auditing municipal accounts. As to the type of the audit, they were referred to the Municipal Corporations Act of 1882. In section 18 of that Act they had scarcely any reference to the accounts of the Corporation. They got nothing else beyond the accounts of an official outside the Corporation who was called a Treasurer. The Act said that every Council should appoint a Treasurer, and to show that he must be an outside official, it said the Town Clerk must not be the Treasurer. Section 25 said there must be two elective auditors, but no reference was made as to their duties. It was section 26 which said that the Treasurer must make up his accounts half-yearly. Section 27 said the Treasurer must submit his accounts with vouchers and papers, and the elective auditors must audit them. So far, no reference was made to anything beyond the Treasurer's accounts. The only duty of the elective auditors, according to an ordinary rendering of these sections, was that the audit was of the Treasurer's accounts. Mr. Rodgers proceeded to refer to the *Devonport* case, of which, he said, he had a private report which set out the case very clearly. It was sent him by the Town Clerk of Devonport.

Mr. Willett: Why not take the Law Reports?

Mr. Rodgers said the report he had simply put in plain language just the references to the sections he had given. Justice Phillimore, in the report before his Honour, said the audit was strictly limited. It was simply an audit of the accounts of the Borough Treasurer as an accounting authority. Justice Phillimore said he agreed that the Treasurer could not shut his eyes in the face of a bill which was obviously not a bill which could be passed by the Corporation. The Borough Treasurer could not shelter himself behind the three signatures. Lord Justice Russell did not agree with that sentence. The auditor he said, must not only look for a voucher and see that the voucher was within the province of the Council or not, but he must go a little further where there was doubt, and Lord Russell just

amplified this. But it must not be suggested, argued Mr. Rodgers, from this, that Lord Russell amplified the audit as regarded the books that were to be audited.

Mr. Willett said it was his contention that the whole of the books of the Corporation were the Treasurer's accounts; they could not distinguish between them. They could take the Postage Book, for instance.

The Judge: Surely you are dealing with the Treasurer as an accounting official?

Mr. Rodgers put in certain books which he said were the Treasurer's accounts.

Mr. Willett remarked that the books put in were practically Pass Books. The Treasurer of the borough of Bexhill was manager of a bank at Lewes. To all intents and purposes the books before his Honour were nothing more or less than Bank Pass Books. They would not find any detail in them whatever. Surely the Treasurer was responsible for the accounts of the Corporation! Mr. Rodgers might as well say he was not responsible for what went on in his office.

The Judge said that, as far as the authorities read to him went, the only audit which was to be made was the audit of the Treasurer's accounts, whatever they might be.

Mr. Willett: The Treasurer is responsible for the whole of the accounts.

The Judge: He is responsible for everything he receives.

Mr. Willett: Supposing the Treasurer draws a cheque for £20 for stamps, and pays that to the Finance Clerk, who pays it to the Stamp Distribution Clerk. £5 goes here, and £5 there to the various offices. It is our duty to trace the whole of those amounts.

The Judge: To see that every stamp is duly licked and applied to the envelope. It would be absurd. His Honour added that Lord Russell only said there should be a fair and reasonable examination of the vouchers.

Mr. Willett agreed. He said they had to make a fair and reasonable examination of the payments of postage stamps. He did not say they should see every letter that was charged a penny. That was going too far.

The Judge: Can't you give me a sample instance to show how it would apply?

Mr. Willett, answering, said that in going through the Stamp Distribution Account and comparing it with the Rate Collector's account, they found a difference of £2, which had to be put right. Surely they had to trace that. If they had not done so, that £2 would never have been discovered.

The Judge asked what were the other items in the Treasurer's accounts, and Mr. Willett said that one book on the table was the Treasurer's General Account.

Mr. Rodgers said the book was a General Cash Book belonging to the Corporation. The Treasurer had never seen it.

Mr. Willett: Then he ought to have.

Mr. Rodgers: It is a Cash Journal.

The Judge: Who keeps it?

Mr. Rodgers: The Accountant. It has never been in the Treasurer's hands. It is only a book we have to keep for Corporation purposes, and is apart altogether from there being such an office as Treasurer.

Mr. Willett: The Treasurer does not see anything of the accounts. He is only a bank manager.

Reading the section of the Act quoted by Mr. Rodgers, the Judge said it seemed that the auditors had to audit the accounts of the Council or the Borough under the Act.

Mr. Rodgers said the section continued to the effect that the auditors should proceed with the audit in a like manner, and have like powers and authority, and perform like duties as in the case of the audit of municipal accounts.

The Judge: I don't see how that alters the initial words of the section.

Mr. Rodgers: The audit is the audit of the Treasurer's accounts, and this fuller judgment I have here shows that.

Mr. Willett: I can't look at a judgment that is not reported in the Law Reports.

The Judge: I cannot accept notes which are not by a barrister or a solicitor.

Mr. Rodgers said that unfortunately this was a passage which bore out what he was saying.

The Judge: I cannot gather from this report whether Lord Justice Russell agrees with Justice Phillimore in saying that the accounts of the audit are simply the accounts of the Treasurer as distinct from the accounts of the Council. He differs from Justice Phillimore as to the nature of the evidence which ought to be gone into, but I cannot see that he limits in one way or another as to the scope of the audit.

Mr. Rodgers replied that Lord Russell said that but for certain words of Justice Phillimore the case would not have gone on.

Mr. Willett: Lord Russell took the view that the Borough Treasurer is responsible for the whole of the accounts. I do not know what is the distinction between the Treasurer's books, and what are not the Treasurer's books.

Mr. Rodgers: The Treasurer's books are the books the Treasurer keeps.

The Judge: The Treasurer here is simply a banker.

Mr. Rodgers: It is the practice of a number of corporations.

The Judge: How the audit could be said to be an audit of the accounts of the Council I cannot understand.

Mr. Rodgers: Our case entirely is that it is an audit of the accounts of the Borough Treasurer.

After reading section 246 of the Act, the Judge said that

how the auditor of the Bank Pass Books could be the auditor of receipts and expenditure he could not say.

Mr. Rodgers: I have here a full judgment, but your Honour does not wish it.

The Judge: I should like your judgment if I could be satisfied of the correctness of the report.

Mr. Rodgers: It comes from a litigating party.

The Judge: That makes it all the more suspicious. (Laughter.)

Mr. Rodgers then read in detail the sections of the Municipal Corporations Act which had reference to elective auditors. Subsequently he said he agreed that if the auditors had to do more than the Treasurer's accounts nine days was not unreasonable, but to show the absurdity of such a contention, an elective auditor would take five or six years to audit the accounts of Liverpool, or any town of importance. Also the auditor who carried out the Devonport audit, instead of taking what Lord Justice Russell said, four days, as being ample, would have taken more than ten times the time.

Mr. Willett said they all knew that in big towns, where it was impossible for the elective auditors to carry out the audit, they had professional auditors. There was only one town that had turned out the elective auditors and relied on the professionals, and that was Huddersfield.

The Judge asked where the duties of the Treasurer were defined.

Mr. Willett: Only in sections 26 and 27.

Mr. Rodgers: No, sir. I have got something else. Section 141 says that orders of the Council for payments of moneys out of the Council shall be signed by three members of the Council, the Town Clerk, and the Treasurer.

The Judge: Is there any provision in the Act which requires that all accounts must go to the hands of the Treasurer?

Mr. Rodgers: Section 21 covers all the accounts which officials of the Corporation receive.

The Judge: Under the Municipal Corporations Act. They could not recover anything under the Public Health Act.

Argument ensued as to what were the Treasurer's books. The General District Fund Account, the Electric Light Account, &c., were taken, and Mr. Rodgers said the Treasurer had never seen them.

The Judge: The question is, are they properly described as Treasurer's accounts? He is responsible for all receipts. All receipts of the Corporation ought to come in the hands of the Treasurer.

Mr. Rodgers: And as soon as they come there his responsibility begins.

When the question of the fuller judgment possessed by Mr. Rodgers came on again at a later stage, the Town

Clerk said he did not mind having the case adjourned for the attendance of the shorthand writer who took the notes.

The Judge said he could not go outside the report he had. The case must be adjourned, or else he must reserve judgment.

Mr. Willett said the whole of the trouble had arisen through the Town Council appointing an auditor of their own and attempting to oust the auditors appointed by the ratepayers.

The Judge: If you make provoking statements you will be answered.

Mr. Willett: I am going to prove that the professional auditor appointed by the Corporation came down here and took ten days to audit those very accounts. Mr. Willett added that it was the most conclusive evidence possible that an amateur had only taken nine days.

The Judge: Did the plaintiff work by himself?

Mr. Willett: The Mayor's auditor did not come at all, because the Corporation had appointed their own professional auditor. The two elective auditors worked four and a-half days, and then a discussion took place between them and the Town Clerk. The result was that one of the auditors said he was not coming again if he could not see all the books. He did not return, and the other auditor adjourned the audit. A suggestion came from the Town Council that the audit should be resumed, and it took altogether nine days. Practically half that time Mr. Stevenson was by himself. Continuing, Mr. Willett said it would take a great deal longer for one to undertake the audit than two, and another thing which made the audit of the accounts of the borough of Bexhill take such a great deal of time was the very meagre nature of the accounts kept.

Mr. Rodgers: Your own client says he finds the accounts in order.

Mr. Willett: I don't say they are not in order. Irregularities were discovered which were afterwards put right. Mr. Willett then read out the totals of several accounts which had nothing to show what they were for. He submitted that the consideration on account of which payment was made should have been put down.

Mr. Rodgers: The vouchers show it.

Mr. Willett: I say it is not the proper way to keep accounts. It takes a great deal longer to audit them.

The plaintiff, Mr. Joseph Henry Stevenson, was then examined. He said he lived at Brockley House, Endwell Road, and was first appointed elective auditor in March 1903. He had been appointed ever since. Before the present audit three auditors did the work—the Mayor's auditor and the two elective auditors. They all worked, and the first two audits took five days each, and the other ones six days.

Mr. Willett: Why have you taken more since then?—The books have increased since the incorporation of the town to almost double.

How long did it take the first year you audited with Mr. Thomas?—Seven days; Mr. Thomas about five, and the Mayor's auditor six.

You were paid two guineas for all those occasions without objection?—Yes.

What books did they produce to you?—The whole of the books of the Corporation up to date.

Could you do the work in less time?—Certainly not.

What do you say about the professional auditor?—The Town Clerk wrote me a letter to ask me to go and see the professional auditor. I refused to go. I contended the professional auditor was the servant of the Corporation, and I was the servant of the ratepayers.

And when did you start auditing the accounts for the year ending September last?—On the 6th, 7th, 8th, 9th, and 10th of February, the 12th and 13th of February, and 8th and 9th of March up to the adjournment.

How long were you there on the 10th?—Up till about 7.30 in the evening. I had no assistance whatever.

What time did you start?—At 9.30.

Mr. Willett: That is the additional two hours which are going to be knocked off, your Honour. My friend and I are agreed that two hours are sufficient for the Borough Fund.

Mr. Rodgers: The Treasurer's accounts.

The Judge: The accounts relating to the Borough Fund, I understood.

Mr. Rodgers: On my system two hours would be quite sufficient for the accounts of the Treasurer.

Plaintiff, in further examination, said the relative size of the Borough Fund Accounts to the remainder was two pages to fifty.

In the aggregate Balance Sheet produced by Mr. Willett the liabilities of the Corporation District Fund Account were put at £47,047, and those of the Borough Fund at only £4,200.

The Judge: The Borough Fund might be regarded as one-tenth of the whole.

Plaintiff, continuing, said Mr. Thomas was with him four and a-half days—two and a-half days before the adjournment and the remainder afterwards.

Mr. Rodgers: Assume for the moment that these are the books you have to audit.—It would not take many minutes to audit them.

I am calling them the Treasurer's accounts. How long would it take to audit the books?—I don't call them the Treasurer's accounts.

How would you audit? This is the book which contains the largest amount of work, the District Fund Revenue

Account.—That is the amount of money paid to the Treasurer and the amount paid out.

The Judge: The question is, how long would it take to audit them?

Mr. Rodgers took the plaintiff through one page of the book, and asked how he would audit it.

Plaintiff said he would find out from whence the money had been derived.

Mr. Rodgers: You call yourself an accountant?—No.

I see by a mistake you are called that in the summons, but that does not matter. How would you audit this particular entry in this book?—By going through the vouchers and particulars of that particular item. Proceeding, he said he should look to see that sums purporting to be collected had been collected.

Mr. Rodgers: If you saw the sum here tallied with the sum in the Corporation books and was shown to have been paid to the Treasurer, would that have been audited?—Certainly. I don't know exactly what you are talking about. You are wandering a bit wide.

There is no occasion to be impertinent.—If it is like the Electric Light Books, I cannot understand them, and no man could.

You know there is a book called the Allotment Rent Collector's Account?—I don't know the names of all the books you have got.

Mr. Rodgers took the plaintiff through several accounts, and Mr. Stevenson said he would require to know from whence the various amounts had come.

The Judge: Supposing your whole duty was to audit those books there, would it be sufficient for your purposes to find in that book the source from which the amounts credited in that book came?—If it was my duty to do no more than that, yes.

Mr. Rodgers: Now we have a payment to Hodgkinson of £4 11s. 4d. In checking these items you would check them with the vouchers?—Yes.

When you have seen the vouchers giving a description in respect of which each payment is made, and you have seen that Hodgkinson purports to have received a cheque, is that an audit of this payment?—I don't check them with the vouchers. I check that green book with the vouchers, and that book by the vouchers.

Tell me this, Mr. Stevenson: Are those vouchers arranged in the order in which the payments appear in that book there?—I believe they are.

Are they, or are they not?—Sometimes they are and sometimes they are not.

The general practice is for them to be arranged in that order?—The general practice is for them not to be so.

The Judge: They are not generally arranged?—They have been very much better this last twelve months.

Mr. Rodgers: Were they arranged at the last audit?—They were not.

In how many cases were they not in order?—I did not book the cases. I got through the audit as quickly as possible.

You are here to say they are not in order by the entries there.—I won't split straws with you. Don't get me to say anything that's not true, because you will not do it.

To audit fifty pages of receipts and payments with entries in the Corporation books, seeing payments to the Treasurer, and vouchers, and seeing receipts for payments, how long would it take?—There are other things to get with them.

Answer the question.—One day.

That is just what my evidence gives.—That book, I say. I am not referring to the book his Honour has got.

Assume those are the Treasurer's books, and that those are all you have to audit; would the type of audit I have put to you be a sufficient audit?—Certainly not.

There is an Allotment Rent Collector's Account. Does that account show the number of small payments from the tenants of allotments?—It does.

Does that account on the other side show by payment to the Treasurer a certain sum?—Yes.

If you turned to the General Fund Account of the Treasurer, would you expect to see this sum £4 7s. 2d. entered to correspond with this payment to the Treasurer?—Yes.

When you had seen that the Treasurer properly accounted for this payment entered into this book, would that have been an intelligent audit?—It would not without the vouchers.

The vouchers! What for?—For the receipts.

You are saying that the Treasurer should concern himself as to how so-and-so paid this or that?—I say the Treasurer does not concern himself at all. He takes the amounts paid in or out.

And if that book shows the sum paid to the Treasurer, and the Treasurer shows he has received it, is that not an intelligent audit?—For that particular book, but not for the amounts received from the allotments.

The Judge: It is not a general audit of the finances of the Corporation.

Mr. Rodgers (to plaintiff): In the Electric Light Accounts would you consider it your duty to go through the counterfoil receipt of each consumer?—Yes.

What part of your nine days was taken up in doing that? There are about 500 or 600 consumers in the town.—About a day, I should think.

There are about 500 or 600 consumers in Bexhill. Assume there were 5,000 or 10,000. How long would it take you to go through the counterfoils? Ten days?—If

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they were entered up like your counterfoils, it would take twenty.

Mr. Rodgers said he did not wish to go into other matters. It would not be to Mr. Stevenson's credit if he did.

Plaintiff: I wish you would.

In further cross-examination, Mr. Stevenson said he had to adjourn the audit.

The Judge: Because the counterfoil receipts were in such bad order?—Yes, sir.

Mr. Rodgers: What do you mean by that? They are in consecutive order through the books.—The collector of a particular rate signed receipts a fortnight in front of himself.

Did you report the accounts in order?—After we adjourned it, and after you put them in order.

Just to show the type of auditor the Council have to deal with; you reported the irregular way in which the accounts were kept, and that certain items and books had been tampered with?—I did.

Did the Council ask for particulars?—Yes.

Was your reply, "We do not feel disposed to enter into any controversy over the report, and have no inclination to reply to details"?—Now I'll explain. I think his Honour should know.

The Judge: What is your explanation?

Plaintiff (to Mr. Rodgers): In consequence of your interference with the audit of the Electric Light Accounts we had to adjourn the audit. You refused to allow the collecting clerk to give us any information in the matter of £3 16s. 10d., said not to have been paid by a consumer, Mr. David Page. As we were getting information from the clerk the Town Clerk ordered him away, and refused any information whatever. We had to adjourn the audit, and found the book's pencil totals taken out. The £3 16s. 10d. had been paid four months before that.

Mr. Rodgers: Is that the explanation you refused to give to the Council? I thought you said the books were tampered with, and you refused to give an explanation even to the Council?—We refused to give any one any explanation.

Mr. Rodgers drew the plaintiff's attention to an entry "D. Page, £3 16s. 10d., March 25 1905," and asked what was the order in which this account was entered during the audit.

Plaintiff: I say it was not marked paid until after the adjournment. You marked it paid, and then you'll find you carried that into another item and made it "£6 17s. 9d. paid," so that £3 16s. 10d. was paid twice. Mr. Page knew it was paid four months previously. I should like his Honour to see if those figures have not been scratched out.

The Judge: I am not going into that.

Mr. Rodgers put questions to the plaintiff on the assumption that the Treasurer's accounts were the only ones he had to audit, but it was some time before this assumption became clear to Mr. Stevenson. In answer to Mr. Rodgers, he said he considered it his duty to go through the counterfoils of the rates, and denied that it would take years to do this in a town with a population of 600,000. It took about three days to go through the counterfoils of the rate collector.

Mr. Rodgers: There are about 4,000 ratepayers in Bexhill?—No.

There are 3,000?—Over 3,000.

And there is a population of 15,000?—No.

Fourteen thousand?—No. Over 13,000.

If it takes you three days to complete counterfoils of the rates, if you can calculate, will you within a day or two, assuming you are elective auditor of Liverpool, say how long it would take?—I have never been to Liverpool.

How long would it take to get through the counterfoil receipts of some 100,000 ratepayers? Would it take some months?—Certainly not.

The plaintiff did not agree with views put forward by Mr. Rodgers as to the duties of an elective auditor. As Mr. Rodgers proceeded, Mr. Stevenson said he did not understand, and could not answer the questions.

Mr. Rodgers: I'll read this again, and I think his Honour will see the perverseness we have to put up with at Bexhill: "It is necessary to clearly understand that an 'elective auditor is not an auditor performing duties of a 'purely arithmetical character.'" Do you understand that?—I do not. (Laughter).

The Judge: What's the word that troubles you? "Arithmetical"? (Laughter.) Your duties are not confined merely to adding up figures and saying they correctly balance.—That's all we're concerned in—adding up figures and saying they are correct.

The Judge: Is it that only?—I take it so.

Mr. Rodgers: We are getting now to fathom an elective auditor's intelligence. This is the view, "It is necessary to clearly understand that an elective auditor is not an 'auditor in the ordinary commercial sense, performing 'duties of a purely arithmetical character.'"—I do not understand what you mean. I understand my duties.

I'll give that up. It's too much. No, you don't understand it. "This kind of work is very useful and necessary, but is entirely beyond the power of an elective auditor." Do you understand that?—It is nothing to do with the case.

Mr. Rodgers drew further comparisons between Bexhill and Liverpool, Hastings and Devonport, which Mr. Stevenson would not accept.

By Mr. Willett: He considered it his duty to see if payments were legal or not.

Donald Sholto Mackenzie Douglas, a member of the Bexhill Town Council, said he was Mayor's auditor during 1904-5 and 1905-6. He took six and a-half days to audit his accounts, although on the occasion in dispute he did not audit at all. He would not say Mr. Stevenson's claim was unreasonable, considering that Mr. Thomas worked only four days, and that when three men were working together it took six days. The professional auditor took twenty days against their total of fourteen.

Mr. Rodgers suggested that Mr. Stevenson wasted his time in doing what was not necessary.

Witness's cross-examination went to show the amount of time it would take to audit the Treasurer's accounts alone.

James Gibb said he was one of the first elective auditors with Mr. Stevenson. He considered the claim reasonable.

Cross-examined: He considered his audit an internal check upon the financial doings of the Council.

Re-examined by Mr. Willett: It would not be satisfactory to the ratepayers if the audit consisted merely of an audit of the accounts of the Corporation as contained in the two books produced, with the vouchers.

The Judge: If their functions do extend into going into the finances of the Corporation, they must do what they have done. On the other hand, if they are confined to seeing to the Treasurer's accounts simply as an accounting person, they would not go to the extent.

Councillor H. Luntley supported the testimony of the last witness, and considered the claim perfectly reasonable.

Cross-examined: The ratepayers expected a report from the auditors, and without going into the whole accounts the auditors could not give one.

In his address to the Judge, Mr. Rodgers referred to the complaint that had been made that the auditors had to audit the whole of the books. On February 2, before the audit, he wrote them a letter, in which he wished them to clearly understand that a number of books were placed before the elective auditors purely as a matter of courtesy, and without prejudice to the proper audit. That defence was not put forward with the desire of withholding anything from the elective auditors. They could have the fullest examination of all books of account they wished, but the Corporation said that if the auditors would not trust the members of the Council, if they represented to the ratepayers they were the only persons who protected the interests of the ratepayers, if they said that no one in the Town Hall was competent to see that payments and receipts were proper—

Mr. Willett: We never said anything of the kind.

Mr. Rodgers: Yes, you do. If they say they can't be expected to rely one particle on a professional audit carried out by a Chartered Accountant, the Council say if that's the standpoint you take up it is unreasonable to

expect to be paid for the time you spend on that work. Continuing, Mr. Rodgers said the Council had information that they were paying four or five times more for their elective audit than they should pay, and inquiry into the duties of elective auditors was instituted. Assuming that four and a-half days were sufficient for a place like Devonport, two and a-half were more than ample for Bexhill. The Council found that by reducing the auditor's fees they had the advantage of an internal check upon their financial doings from a professional accountant, and would still be able to allow to the elective auditors time sufficient for their audit, and at a cost for the professional audit and the elective audit of what previously was more for the one. Mr. Rodgers further contended that as the Council conducted the electric lighting undertaking they should have, as other large commercial concerns, the advantage of a professional audit, and on a consideration of the duties of the elective auditors the Council felt they were right in holding that the audit was a strictly limited one. The Town Clerk argued that in a large town the elective auditors would be unable to institute an internal check upon the whole finances of the Corporation, as was desired in the present case, through sheer lack of time. He did not say that the elective audit was a satisfactory audit. It had been called by authorities a farce, and it was recommended in some quarters that it should be abolished. Mr. Rodgers referred at length to the sections of the Public Health Act and the Municipal Corporations Act which had been quoted. He contended that the audit was a strictly limited one, and was not an audit of the doings of the various Committees, but simply an audit of the accounts of their Borough Treasurer. Assuming that the audit was anything more than a limited one, the audit at Devonport could not have been done in four days. If the principle contended for by the plaintiff were correct, it would take ten years for two auditors to complete the audit of a large town.

Mr. Rodgers agreed that nine days constituted a reasonable time if the full audit had to be done, and Mr. Willett agreed that two and a-half days were sufficient if the other scheme was correct.

The only witness called for the defence was Mr. Graham King. He said he was a Chartered Accountant, and had been appointed auditor to three corporations, in addition to being one of the auditors of the City of London. He had audited the whole of the accounts of the Bexhill Corporation, and the financial transactions of the Council, for the six months ended September last, and he considered his audit was a check on the financial doings of the Corporation. There was not the slightest comparison between the elective auditors' time and his. The book produced was a Cash Book of the Corporation, but he should not call it one of the Treasurer's accounts.

The Judge: Why not?—The Treasurer does not keep it. It is not kept in the Treasurer's Department.

The Judge: Does it relate to his accounts?—All the books of the Corporation relate to his accounts.

The Judge: You mean by the Treasurer's accounts only the books kept by him?—Yes.

In further examination, the witness said he had audited the Treasurer's accounts with the Cash Book and the vouchers. He accomplished the elective auditors' audit in one and a-half days, with his clerk, and produced a time table of the time spent on the various books.

Cross-examined by Mr. Willett: He did not sign the Stamp Distribution Account. He audited it, but did not find anything wrong with it.

Mr. Willett: Did you find £2 wrong with it?—No.

Did you check it with the various accounts of the various people who have postage stamps?—No.

You didn't follow it up in any way?—Yes, I did.

How did you audit it?—I saw the names for the letters sent off, and checked it by the subsidiary books.

Did you not discover that one of the officers had received £2 for stamps and there was no entry in the Stamp Distribution Book?—Very likely not. It would be either in his hands or the finance clerk's at the end of the year.

If you had compared the book with the Stamp Books you must have found out there was £2 out?—I dare say I should have.

After further cross-examination the case was adjourned until July 30, when Judge Scully gave judgment.

JUDGMENT.

His Honour, in giving judgment, said: This is a case in which I have reserved my judgment from the last Court. Plaintiff claims the sum of £19 8s. 6d. The first point upon which plaintiff based his claim was the question of contract, and that he should be paid at the rate of two guineas a day for the time he was employed in auditing the accounts of the Bexhill Corporation. He was employed in the audit some nine and a quarter days, for which he claims to be paid at the rate of two guineas a day. As regards the question of contract, the claim for which was abandoned in the course of the argument, there was no evidence of such contract, and nothing in the circumstances which would imply contract. As regards the claim for work done as under the Public Health Acts, 1875, he is undoubtedly to be paid the two guineas a day for such time as he was employed, properly, in the prosecution of his duties as public auditor. The whole question is made clear in the case of *Thomas v. Devonport Corporation*, and I have had an opportunity of seeing the full report in *The Law Times* since the last Court. The decision in that case plainly lays down that the auditor under the Public Health Act is not to generally audit the finances of the Corporation, but only those of the Treasurer. No doubt on occasions it may be necessary for the auditor

to examine accounts other than those of the Treasurer, and it would be legal for the auditors to do so, but the decision quoted clearly shows that the duties of an auditor only refer to the examination of the Treasurer's accounts, although, if necessary, he can test any account by reference to any other accounts of the Corporation. The auditor is not entitled to hold a general audit of the books, and as the plaintiff said he did go through the whole of the books, I am bound to hold that the greater part of the work is outside his rights. He could not have been employed in properly auditing the accounts for more than two days. The rest of the time has been spent in examining the accounts of the rate-collectors and the subsidiary accounts. Therefore I will allow the plaintiff two guineas a day for two days' work, or a total of £4 4s., this to be paid out of the £5 5s. now in Court.

The Town Clerk: May I ask your Honour for costs under scale "B"? The case is a very important one to all corporations of the country.

Mr. Willett asked his Honour to refuse costs to the Corporation. The case was in the nature of a trap, because the whole of the books were placed before the auditors, and it was not pointed out to them that they were not entitled to go through all of them.

His Honour said he understood that they were placed before the auditors without prejudice on the occasion of this audit.

Mr. Willett: Yes, but it was never suggested until this case was brought that they were only entitled to audit the Treasurer's books. Mr. Willett remarked that the Council paid for their law by an inclusive salary, so that the effect of giving costs to the Corporation would be that the Corporation would be making costs out of litigants.

His Honour: That might apply to profit costs.

(*The Bexhill Chronicle*.)

Bankruptcies and Insolvencies.

CHANCERY DIVISION.

(Before NEVILLE, J.)

July 13, 14, 16.

Preston (Trustee in Bankruptcy of) v. Cooke.

Bankruptcy—Undischarged Bankrupt—After-acquired Equitable Real Estate—Intervention by Trustee in Bankruptcy—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), secs. 44, 54, 168.

Trial of action.

The plaintiff was the trustee in the bankruptcy of G. R. Preston (hereinafter called the bankrupt), who was adjudicated bankrupt on November 10 1893 and had never obtained his discharge.

On November 19 1901 a certain piece of freehold land at East Barnet, in the county of Hertford, known as the "

Crest" estate, was conveyed to a certain J. M. Birkett in fee-simple. The money for this purpose was provided by the bankrupt, and the equitable estate in fee-simple passed to him (or to his trustee in bankruptcy) immediately on the execution of the conveyance.

On December 20 1901 the said J. M. Birkett purported to lease the "Hill Crest" estate for a term of ninety-nine years from September 29 1901 to a certain J. H. Redgrave, which was an *alias* of the defendant. It is alleged, however, that the execution of this lease was a forgery of the bankrupt.

On February 10 1902 the bankrupt (under the name of J. H. Redgrave) purported to mortgage to the defendant the unexpired residue of this term (less the last day thereof).

At the date of this mortgage the plaintiff had not intervened so as to make any claim to the "Hill Crest" estate as after-acquired property of the bankrupt.

The present action was now brought (*inter alia*) for a declaration that the plaintiff was entitled to the "Hill Crest" property, as trustee of the bankrupt, free and unencumbered from the said lease and mortgage.

C. E. E. Jenkins, K.C., and A. Cordery, for the plaintiff, submitted that the plaintiff, as trustee in the bankruptcy, had become entitled to the equitable fee-simple in the "Hill Crest" estate, by virtue of sections 44, 54, and 168 of the Bankruptcy Act, 1883, immediately on the conveyance of November 19 1901.

W. H. Upjohn, K.C., and A. R. Kirby, for the defendant, argued that, although this would have been true in the case of the legal estate (had that come to the bankrupt by virtue of the conveyance of November 19 1901), by reason of the decision in *In re The New Land Development Association, Lim., and James Fagence* (1892, 61 L.J. Rep. Ch. 323, 495; L.R., 1892, 2 Ch. 138), *sub nom. In re The New Land Development Association and Gray*, yet that it was not true in the case of equitable real estate; and that the case of equitable real property acquired by an undischarged bankrupt after his bankruptcy was governed by the general rule laid down in *Cohen v. Mitchell* (1890, 59 L.J. Rep. Q.B. 409; L.R. 25 Q.B. Div. 262)—*i.e.*, that after-acquired property passed to the trustee under the sections in question only on the intervention, orally or by letter, of the latter—not by the exception grafted on to the general rule in the case of legal real estate by *In re The New Land Development Association and James Fagence*.

Jenkins, K.C., replied.

JUDGMENT.

Neville, J., said that, in the face of the decision of Mr. Justice Chitty in *In re The New Land Development Association and James Fagence*, and of the dicta on this decision of Lord Justice Kay and Lord Justice Lindley in the Court of Appeal, he did not feel at liberty to draw the distinction between legal and equitable real estate now urged upon him

by counsel for the defendant. That being so, he must make the declaration now asked for.

(L.J. 533.)

Company Law.

CHANCERY DIVISION.

July 17.

(Before BUCKLEY, J.)

In re Jackson & Bassford, Lim.

Company—Winding-up—Fraudulent Preference—Debenture—Agreement to give Debenture when required—Companies Acts, 1862 (25 & 26 Vict. c. 89), s. 164; and 1900 (63 & 64 Vict. c. 48), s. 14.

This case raised an important question of company law—as to the validity of a debenture, issued shortly before winding-up (and registered under section 14 of the Companies Act, 1900), in pursuance of an antecedent agreement. A summons was issued by the liquidator asking for a declaration that the debenture was a fraudulent preference within the meaning of section 164 of the Companies Act, 1862.

JUDGMENT.

Mr. Justice Buckley delivered judgment to the following effect:—This company is in voluntary liquidation. It is insolvent, and its assets are insufficient to pay its creditors in full, there being a deficiency of about £2,000. The summons taken out by the liquidator asks that it may be declared that a debenture for £3,600, issued to the respondent, William Jackson, about fourteen days before the commencement of the winding-up, was an undue and fraudulent preference of him over the other creditors of the company, and that the debenture is invalid accordingly. The company was incorporated in February 1904, and the signatories to its memorandum of association were five Jacksons and two Bassfords—namely, William Jackson, his wife, Arthur Jackson, and two Misses Jackson, and Mr. and Mrs. Bassford. By the articles of association it was provided that there should be three directors, William Jackson, Frederick James Bassford, and Arthur Jackson; and William Jackson was to be the "permanent director." The nominal capital was £5,000 in shares of £1 each, and of these only 850 were issued. Five hundred and one of these were held by William Jackson, and the rest were held by members of the two families. The substance of what I have said is that William Jackson was the permanent director, the largest shareholder, and the predominant person of the company. This company with its small share capital had nevertheless a turnover in 1904 and 1905 of several thousands a year. Money was necessarily required, and it was obtained in this way. The company had an account with a bank, and the bank was willing to

allow an overdraft on certain terms including a guarantee by William Jackson personally. The original overdraft was for £2,500, and on December 8 1904 there was a minute of the board to the effect that, in consideration of William Jackson guaranteeing the overdraft, it was agreed that the company would, "whenever called on by him to do so," give him a counter security by a debenture charged on the company's property. The overdraft of £2,500 having been exhausted, more money was required, and in February 1905 there was a similar resolution, the overdraft was increased to £4,000, and William Jackson gave his guarantee to and deposited certain securities with the bank. So that William Jackson did in fact give value for the company's agreement to give him security. William Jackson was a leather merchant, and as such had dealings with the company. The company owed him from time to time large sums of money, and cheques for these sums were drawn on the Bank Account, so that he derived some benefit, by being paid for his goods, from the overdraft. On December 8 1905 he wrote a letter to the company asking for security in accordance with the company's agreement, and on the same day there was a board meeting at which his letter was read and instructions were given for the preparation of a debenture to be given to William Jackson. On December 15 the debenture, which was for £3,600 and interest and created a charge on the company's property, was sealed and given to him. At a board meeting held on December 29 it was resolved to summon a meeting of the company to pass an extraordinary resolution for the voluntary winding-up of the company, and that resolution was passed at a meeting of the company held on January 1 1905. Under these circumstances the question is whether the debenture is good. There are cases in bankruptcy in which, it being an act of bankruptcy for a debtor to assign all his property, the question arose whether, if such an assignment was in accordance with a previous agreement, that fact saved what was done from being an act of bankruptcy. In *Ex parte Fisher* (1872, L.R. 7, Ch. 636, at p. 644) Lord Justice Mellish said:—"Although we do not dispute the rule that, where a sum of money is advanced on the faith of a promise that a bill of sale shall be given, such sum is to be treated as a present advance on the security of a bill of sale, we do not think this rule will protect transactions when the giving of the bill of sale is purposely postponed until the trader is in a state of insolvency, in order to prevent the destruction of his credit, which would result from registering a bill of sale. We think that such a postponement is evidence of an intention to commit an actual fraud against the general creditors." Passing from this, provision is made by section 14 of the Companies Act, 1900, for the registration of certain mortgages and charges, including such a charge as is given by the

debenture, and the clear object of that provision is that creditors and others dealing with the company may be able to ascertain what incumbrances on its property have been created by the company. An agreement as to giving a security may be in either one of two forms. It may be expressed as to give itself a present security. In that case, if the security is of the kind mentioned in section 14, the agreement itself must be registered under the section or it will be void. On the other hand, the agreement may be so expressed as to be merely an agreement that in some future event a security shall be created in the future. In that case no registration of the agreement is required, but, if it is sought thereby to give a preference to one creditor over the others, the effect would be not to create a security if the giving of it was postponed for so long as to bring it within the prescribed period before winding-up commenced. It seems to me that the language of Lord Justice Mellish is applicable to the present case. If the end in view was to give a security in the future and to hold it over to save the credit of the company by escaping registration under the Act of 1900, that is, in my judgment, evidence of an intention to commit an actual fraud on the general creditors. *Ex parte Fisher* has been followed in other cases. *In re Gibson* (1878, 8 Ch.D. 230) lays down no new principle. In that case the principles of *Ex parte Fisher* were merely applied to the facts before the Court. There was a promise to "give a bill of sale whenever you require it," and the Chief Judge said:—"It would be directly repugnant to all principles of bankruptcy law to say that 'if a man contracts a debt in 1873, and says to the lender, 'I will give you as security a bill of sale if you like,' and the lender says, 'I will not take it unless you are pressed,' and the lender dies, and then the executor comes and says, 'I must have security for this debt,' and the bill of sale is accordingly given, that is a valid bill of sale.'" *Ex parte Kilner* (1879, 13 Ch.D. 245) emphasises the rule laid down in *Ex parte Fisher*. An agreement to give security if and when required does not necessarily involve a fraudulent preference, but in such a case the onus lies on the creditor who gets the security to show that it was not postponed in order to escape the publicity resulting from registration. In *Ex parte Hauxwell* (1883, 23 Ch.D. 626) it was held that a parol agreement to give a bill of sale did not require registration and that a bill of sale given in pursuance of the agreement was not void by reason of the non-registration of the agreement; but in that case the agreement was for the immediate execution of a bill of sale. In the present case the board of directors was so constituted that William Jackson could have had his debenture at any time—as soon as he asked for it he got it. He does not discharge the onus of showing that the delay was *bona fide*. The facts amount to this, that, relying on the agreement to give security, he went on incurring

debts on behalf of the company, relying on being able at any time to enforce the antecedent promise. To allow that would be to repeal section 14 of the Companies Act, 1900, and I do not think that the section allows such a transaction. The promise, given for value, was a promise which could not be allowed to take effect, if insistence on it was postponed till a date when the period prescribed for fraudulent preference had arrived. I, therefore, hold the debenture to be invalid as a fraudulent preference, and the respondent must pay the costs.

(22 *Times Law Reports*, 708.)

Income Tax.

HOUSE OF LORDS.

30th July.

(Before Lord LOREBURN, L.C., and Lords DAVEY, JAMES, ROBERTSON, and ATKINSON.)

Strong & Co. of Romsey, Lim. v. Woodfield.

Inland Revenue—Income Tax—Deductions—“Disbursements exclusively laid out for the purposes of such Trade”—Income Tax Acts, 1842 (5 & 6 Vict. c. 35), s. 100, Cases 1 & 2; R. 1, and 1853 (16 & 17 Vict. c. 34), Schedule D.

This was an appeal from the decision of the Court of Appeal (Collins, M.R., and Mathew and Cozens-Hardy, L.JJ.) (53 W.R. 625; 1905, 2 K.B. 350), reversing Phillimore, J. The appellants were a brewery company who owned an inn and conducted it through a manager. A customer sleeping in the inn was injured by the falling of a chimney upon him, and the appellants had to pay £1,490 in costs and damages for the negligence of their servants, whose duty it was to see that the premises were in proper condition. The Court of Appeal held that the costs and damages so paid could not be deducted from the year's profits for the purposes of income-tax assessment.

JUDGMENT.

The House affirmed this conclusion.

Lord Loreburn, L.C., after stating the facts, and referring to the Income Tax Acts sections and rules, said the Income Tax Acts did not affirmatively state what losses might be deducted. It did not follow that if a loss was in any sense connected with the trade it must always be allowed as a deduction. For example, losses sustained by a railway company in compensating passengers for accidents in travelling might be deducted, but if a man kept a grocer's shop, for keeping which a house was necessary, and one of the window shutters of that house fell upon and injured a man in the street, the loss thereby to the grocer ought not to be deducted, because it fell upon him as the owner of the

house, and not by reason of his trade. In his Lordship's opinion, the loss to the appellants in the present case was not one really incidental to their trade as innkeepers, but fell upon them in their character not of traders, but of householders. The appeal, therefore, failed.

The other noble and learned lords concurring, the appeal was dismissed.

(50 S.J. 666.)

Miscellaneous.

CHANCERY DIVISION.

July 21 and 23.

(Before NEVILLE, J.)

The Nitedals Taendstikfabrik v. Bruster.

Principal and Agent—Dishonest Agent—Honest and Dishonest Acts—Commission.

Trial of action.

The defendant, by an agreement dated December 4 1901, agreed to act as sole agent for the plaintiffs for the sale of their matches in Great Britain and Ireland, &c. For this he was to receive a certain commission.

It now appeared from the evidence that it was the practice of the defendant in a great number of instances dishonestly to sell the matches at a price greater than that charged by the plaintiffs, and to retain the difference as a secret profit for himself. The present action now brought against the defendant by the plaintiffs, claiming (*inter alia*) an account.

W. H. Upjohn, K.C., and J. F. Waggett, for the plaintiffs, submitted that as the defendant had acted with systematic dishonesty, he was not entitled to any commission in taking this account, even if it should appear that in the case of any particular transaction the defendant had acted honestly (*Andrew v. Ramsay & Co.*, 1903, 72 L.J. Rep. K.B. 865; L.R., 1903, 2 K.B. 635).

W. E. Greaves, for the defendant, submitted that he was entitled to commission in the case of all honest transactions.

JUDGMENT.

Neville, J., said that he felt that there was a certain difficulty in connection with this point in view of what was said in *Andrew v. Ramsay & Co.* However, he had come to the conclusion that the doctrine there laid down did not apply to the case of an agency where the various transactions were separable, in such a way as to enable a principal to refuse to pay commission to a dishonest agent in respect of cases in which the agent had acted honestly.

Law Reports.

Company Law.

COURT OF APPEAL.

July 26.

(Before VAUGHAN WILLIAMS, ROMER, and COZENS-HARDY, L.JJ.)

In re Ehrmann Brothers, Lim.

*Company—Debentures—Registration—Extension of Time—
“Without Prejudice to” Rights Acquired—Rights of
Unsecured Creditors—Companies Act, 1900 (63 & 64 Vict.,
c. 48), secs. 14 (1), 15.*

This was an appeal from a decision of Mr. Justice Joyce, reported 34 *Actt. L.R.* 87. The case raised a question of some importance in company law, the point being whether where an order has been made under section 15 of the Companies Act, 1900, extending the time for the registration of debentures under the Act, the rights of unsecured creditors are effected to any and what extent by the proviso or condition which it is the practice to insert in such orders, taken from what is now the common form, which has been settled by the Court of Appeal in *In re Johnson & Co.* (1902, 2 Ch. 101). The facts upon which the question turned were shortly as follows:—The company was incorporated in 1900. In July 1900 the directors resolved to raise a sum of £26,250 by the issue of debentures. In pursuance of this resolution certain debentures were issued prior to January 1 1901, upon which date the Companies Act, 1900, came into operation. Subsequently further debentures of the same series were issued, and through inadvertence were not registered as required by section 14 of the Act. On July 24 1903 an order was made by Mr. Justice Swinfen Eady under section 15 extending the time for registration until August 14 1903. But that order was expressed to be made “without prejudice to the rights other than the rights in respect of debentures of the series of the said debentures authorised by resolution of the company dated July 21 1900, which may have been or may be acquired against the holders of the said debentures set forth in the said schedule” (these being the debentures in respect of which the time for registration was extended by the order) “prior to the time when the last-mentioned debentures shall be actually registered.” The debentures which required registration were accordingly registered on August 7 1903. In November 1903 the company went into voluntary liquidation. The question now before the Court arose upon a claim by certain unsecured creditors, whose debts had accrued prior to the registration, and who contended that by virtue of the proviso, as against them, the debentures registered out of time were bad, and that the holders of them could only rank for payment *pari passu* with the general body of creditors. Mr. Justice Joyce decided that the holders of the debentures issued since

January 1 1901 must come in *pari passu* with the unsecured creditors. These debenture-holders appealed.

JUDGMENT.

The Court allowed the appeal.

Lord Justice Vaughan Williams said that this was an appeal from so much of the decision of Mr. Justice Joyce as decided that the holders of the debentures issued since January 1 1901 were to come in *pari passu* with the unsecured creditors. It was contended that the unsecured creditors ought not to be put on a level with these debenture-holders, and his Lordship thought that this contention was right. The necessity for registration within 21 days after issue was imposed by section 14 of the Companies Act, 1900, and by section 15 of the same Act power was given to extend the time, and it was expressly provided that this relief might be given upon such terms as might seem just and expedient. In the present case the order of July 24 1903, which granted the extension of time, was made “without prejudice to the rights other than the rights in respect of debentures of the series of the said debentures authorised by resolution of the company dated July 21 1900 which may have been or may be acquired against the holders of the said debentures set forth in the said schedule” (these being the debentures in respect of which the time for registration was extended by the order) “prior to the time when the last-mentioned debentures shall be actually registered.” That order having been made, the debenture-holders who thus obtained the benefit of this order were, in fact, registered subsequently. It was not denied that these debentures registered within the extended time were good debentures, but it was said that this was so subject to the rights of the persons who were existing unsecured creditors at the time when the order was made. This argument was based on the proviso in the order, but, in his Lordship’s judgment, unsecured creditors who had acquired no rights against the property which was subject to the debentures did not come within the words. He believed that the order was merely intended to protect rights which intervened between the end of the 21 days, which was the period within which the statute required registration, and the time for registration under the order which gave leave for extension of time. According to his reading of the order, it only gave protection to those persons who had acquired rights of property and that did not include unsecured creditors who had no right against the property included in the debenture-holders’ charge. The case was not devoid of authority. There was first the decision of Mr. Justice Buckley in *In re Joplin Brewery Company*, 1902 (1 Ch. 79), which led to the adoption in these orders of a proviso analogous to that which had been adopted in orders extending the time for registration of bills of sale. Subsequently the matter came before the Court of Appeal in *In re Johnson & Co.* (1902, 2 Ch. 101).

The question in that case was not what was the protection given to unsecured creditors, but what was the result of an order drawn up in accordance with the decision in *In re Joplin Brewery Company* (*supra*), upon the rights of debenture-holders *inter se*. In that case the Court had not to decide the question of the rights of the unsecured creditors at all, but it might be inferred from passages in the judgments of the Lords Justices that they would not have affirmed that unsecured creditors, who had no rights of property at all, no interest by way of charge or otherwise, in the funds charged in favour of the debenture-holders, would have been protected by an order in the form settled in that case. Lord Justice Cozens-Hardy said:—"The analogy of the "Bills of Sale Act, which Mr. Justice Buckley took in *In re Joplin Brewery Company*, seems to me to be very close and "precise; but, speaking for myself, I doubt whether the "words which he has inserted—which are a mere transcript "of the common form under the Bills of Sale Act—would "have any effect in protecting creditors who had not taken "some proceedings to get a charge or a security upon "the goods." That was the conclusion which his Lordship had come to in the present case. He thought that the intention of the Legislature, as appeared by the statute itself, was in cases in which it was just to grant an extension of time to place the debenture-holders who had omitted to register within the 21 days in the same position as they would have been if they had registered within due time, but, of course, provision had to be made for the rights of those persons who had obtained rights at the time when the order for extension of time was made. His Lordship did not think that the Legislature intended to give an unsecured creditor, merely because he was an unsecured creditor at the date of the order for extension, the right to say that, so far as he was concerned, the debenture which was not registered in due time but was registered under the order for extension was not operative. In fact, this was not really contended, but it was said that this extension order estopped the persons registering under it from saying that they had a charge under their security as against any person who was an unsecured creditor at the time when the order for extension was made. His Lordship did not think that that was the right view of the order. The appeal, therefore, must be allowed.

Lord Justice Romer delivered judgment to the same effect. His Lordship added that in his opinion the judgment of Mr. Justice Buckley in *In re Anglo-Oriental Carpet Manufacturing Company* (1903, 1 Ch. 914), was right, because in that case the company had gone into liquidation prior to the registration under the order for extension, and, consequently, a right had been acquired by the unsecured creditors which the Courts could recognise and enforce—namely, that all assets of the company should be applied rateably among the existing creditors at the time of the

liquidation. For these reasons his Lordship thought that the decision of Mr. Justice Buckley was right, but that case did not cover the present, and he thought that Mr. Justice Joyce was wrong in thinking that there was any authority which prevented him giving effect to what was really his own opinion in the present case.

Lord Justice Cozens-Hardy delivered judgment to the same effect. He also thought that the case of *In re Anglo-Oriental Carpet Manufacturing Company* (*supra*) was distinguishable on the ground stated by Lord Justice Romer.

(22 Times Law Reports, 734.)

CHANCERY DIVISION.

July 20.

(Before BUCKNILL, J.)

Patent Wood Keg Syndicate, Lim. v. Pearse.

Company—General Meeting—Requisition—Joint Holders of Shares—Signature of One Holder—Resolution to Appoint as Directors Named Persons or such other Persons as the Company shall think fit—Poll—Taking Poll on Several Resolutions at once—Companies Act, 1900 (63 & 64 Vict. c. 48), s. 13.

The company had commenced an action against its vendors claiming relief in respect of various matters. The company had adopted Table A for its articles. A requisition for an extraordinary general meeting was signed, and notice was given thereby that a resolution would be put to the meeting for the appointment as new directors of certain named persons or such other persons as the company should think fit. The meeting was convened by the requisitionists, the directors not having convened it. At the meeting a resolution in the same terms was passed. A poll was demanded, and was taken *en bloc* on this resolution and five others which had been put to the meeting separately, the resolutions being declared carried. The new directors appointed in accordance with the resolution subsequently gave notice of change of solicitors and of discontinuance of the action.

This was a motion by the company for an order that the notices of the appointment of new solicitors and of discontinuance should be set aside.

The objections taken to the validity of the notices were (1) that the requisition convening the meeting was signed by one only of two joint holders of 1,000 shares. If these shares were not to be reckoned in estimating the amount of the capital held by the requisitionists, the requisition had been signed by the holders of less than one-tenth of the issued capital of the company, the holders of which proportion must sign it under section 13 of the Companies Act, 1900. (2) That a resolution could not validly be put to the meeting that certain named persons or such other persons as the company should think fit be appointed directors. (3) That the poll upon the six resolutions *en bloc* was not validly held.

JUDGMENT.

Buckley, J., said that all three objections to the validity of the notices must be upheld. The requisition was not validly signed by the owners of the 1,000 shares, since one of them did not sign; and it must, in the words of the Act, be signed by the holders—that is, by all the holders. The signing of a requisition by one joint holder was not authorised by Table A. The resolution regarding the appointment of directors was bad, since it left the question who were to be appointed open; and the poll had not been validly taken, since a shareholder might well wish to vote for some of the resolutions and not for others, and could not be required to vote for or against the whole of them at once. The new directors and new solicitors had therefore not been validly appointed, and the notices of discontinuance and of change of solicitors were bad.

(L.J. 530.)

CHANCERY DIVISION.

July 30.

(Before BUCKLEY, J.)

The Buhlmann Incandescent Syndicate, Lim.*Petition to Wind up a Company Registered in Guernsey.*

A petition by creditors for a compulsory order, the company being in voluntary liquidation in Guernsey with a view to reconstruction. The assets were in this country, and a receiver was in possession for the debenture-holders. The Official Receiver had been appointed provisional liquidator pending the hearing of the petition now before the Court. Interpleader proceedings were also pending through the sheriff attempting to levy execution on behalf of a creditor.

The petitioners attacked the validity of the debentures, on the ground that the company being a foreign corporation the debentures were void through want of registration under the Bills of Sale Acts, and it was thought that if a compulsory order were obtained the rights of creditors would be better protected. By section 17 of the Bills of Sale Act, 1882, the charges of all mortgage, loan, or other incorporated companies are expressly exempted from the provisions of that Act. In the case of the *Great Northern Railway Company v. The Coal Co-operative Company* (1895, 1 Ch. 187), a company registered under the Industrial and Provident Societies Act, judgment was given against the plaintiffs, who were debenture-holders, and in favour of the liquidator of the company, on the ground that it was not an incorporated company, and therefore the debenture-holders lost their security through want of registration. In the case of the *Standard Manufacturing Company* (1891, 1 Ch. 627), Lord Justice Bowen, in the Court of Appeal, said the reason why the Bills of Sale Act, 1878, did not apply to the charges given by incorporated companies was due to the fact that other statutory

provision had previously been made for registration by the Companies Clauses Consolidation Act, 1845, and by the Companies Act, 1862.

Under the agreement for sale to the company it appeared that the vendor had an option in the event of the company being wound up in any other way than voluntarily with a view to reconstruction to repurchase all patents for £10, whereas it was contended they were now of considerable value.

Under article 38 of the *Projet de Loi*, relating to companies registered with limited liability in Guernsey, a company is deemed to be dissolved on the passing of a special resolution at a general meeting, which is dated from the time when a duly authenticated copy is filed with the Greffier of the Royal Court.

JUDGMENT.

Mr. Justice Buckley said that this was the first petition that had come before the Court to wind up a company registered in Guernsey. He had decided that the petition ought to be dismissed, as there was a voluntary liquidation in existence, and as the question of the validity of the debentures which had been raised, as to which he would express no opinion, would be decided in the interpleader proceedings, which, he understood, were pending. The petition was therefore dismissed, but without costs.

(Reported by W. H. Terry, Esq., Barrister-at-Law.)

Income-Tax.

HOUSE OF LORDS.

30th July.

(Before Lord LOREBURN, L.C., and Lords MACNAGHTEN, JAMES, ROBERTSON, and ATKINSON).

De Beers Consolidated Mines, Lim. v. Howe
(Surveyor of Taxes).

Inland Revenue—Income-tax—Profits or Gains arising from Trade—"Person Residing in the United Kingdom"—"Trade Exercised Within United Kingdom"—Company Owning Mines Abroad—Registration Abroad—Head Office Abroad—Business mainly conducted in London—Income Tax Act, 1853 (16 & 17 Vict. c. 34), s. 2, Schedule D.

Appeal from an order of the Court of Appeal (Collins, M.R., and Mathew and Cozens-Hardy, L.JJ.) (54 W.R. 9; 1905, 2 K.B. 612) affirming the judgment of Phillimore, J., on a case stated by the Income Tax Commissioners. The question was whether the appellants ought to be assessed to income-tax on the footing that it was a company resident in the United Kingdom, and this depended on the circumstances, as shortly narrated in the judgment.

JUDGMENT.

The House dismissed the appeal.

Lord Loreburn, L.C.—Under the second section of the Income Tax Act, 1853, Schedule D, any person residing in

the United Kingdom must pay on his annual profits and gains arising or accruing to him "from any kind of property" "whatever, whether situated in the United Kingdom or "elsewhere," and also "from any profession, trade, employment, or vocation, whether the same shall be respectively "carried on in the United Kingdom or elsewhere." It was easy to ascertain where an individual resided, but some artificial test had to be applied to a company, because in one sense a company could reside nowhere. Mr. Cohen had said the test was where the company was registered. I cannot accept that contention. A company could not eat or sleep, but it could keep house and do business. We had to see, therefore, where this company really kept house and did business. An individual might be of foreign nationality and yet reside in the United Kingdom. So might a company. Otherwise, it might have its chief seat of management and its centre of trading in England, under the protection of English law, and yet escape the appropriate taxation by the simple expedient of being registered abroad. The decision of Kelly, C.B., and Huddleston, B., in *The Calcutta Jute Mills and Nicholson and the Cesena Sulphur Co. v. Nicholson* (25 W.R. 71, 1 Ex. D. 428), given more than thirty years ago, involved the principle that a company resides for the purposes of income-tax where its real business was carried on. That decision had been acted on ever since, and I regard that principle as the true rule, and the real business is carried on where the central management and control actually resides. [His Lordship then considered the facts as stated by the Commissioners and the conclusions arrived at, that the trade or business of the appellant company constituted one trade or business, and was carried on at their London office, and that the head and seat and directing power of the affairs of the appellant company were at the office in London, and concluded:] These conclusions cannot be impugned, and it follows that this company was resident within the United Kingdom for the purposes of income-tax and must be assessed on that footing.

The other noble and learned lords concurring, the appeal was dismissed.

(50 S.J. 666)

Miscellaneous.

KING'S BENCH DIVISION.

July 21.

(Before PHILLIMORE, J.)

Bank of Montreal v. Exhibit and Trading Company, Lim.

Bill of Exchange—Promissory Note—Alteration—Alteration Not Apparent—Endorsement—Stamp—Made in United Kingdom Stamp Act, 1891 (54 & 55 Vict. c. 39), s. 34—Bills of Exchange Act, 1882 (45 & 46 Vict. c. 61), secs. 64, 72, subsec. 1 (a).

This was an action to recover the sum of £405 15s. 4d., being the amount of principal, interest, and notarial charges due on a promissory note for \$1,922.60 signed by

the defendants, an English company, dated June 10 1905, payable 90 days after date to the order of the Goderich Organ Company, and endorsed by them to the plaintiffs, who were holders in due course for value. It appeared that the Goderich Organ Company had been turned into a limited company, and that the promissory note in question, which was made in England and sent out to Canada to the Goderich Organ Company, was endorsed on behalf of the Goderich Organ Company, Lim., to the plaintiffs. It further appeared that on the face of the note the word "Limited" had been added after the words "the Goderich Organ Company" subsequent to the making of the note by the defendants. The defence was that the endorsement was not in order and that the addition of the word "Limited" was a material alteration of the note which made it invalid. A further defence was that the note was unstamped.

Mr. J. D. Crawford, who appeared for the plaintiffs, submitted that there was no substance in the point as to the indorsement and alteration of the note. The section of the Bills of Exchange Act, 1882, which dealt with alterations of bills and notes was section 64, which provided as follows:—Subsection (1)—"Where a bill or acceptance is "materially altered without the assent of all parties liable "on the bill, the bill is avoided, except as against a party "who has himself made, authorised, or assented to the "alteration and subsequent endorsers. Provided that where "a bill has been materially altered, but the alteration is "not apparent, and the bill is in the hands of a holder in "due course, such holder may avail himself of the bill as "if it had not been altered, and may enforce payment of "it according to its original tenor." Subsection (2)—"In "particular the following alterations are material—namely, "any alteration of the date, the sum payable, the time of "payment, the place of payment, and where a bill has "been accepted generally, the addition of a place of payment without the acceptor's assent." If the note in question were looked at, no one could tell that the word "Limited" had been added; therefore the alteration was not "apparent" within the meaning of the proviso to subsection (1) of section 64. The plaintiffs, in fact, took the note without notice of the alteration.

Mr. Justice Phillimore: The ink seems a little thicker in the word "Limited," but there was room for the insertion of the word, and at present I am inclined to agree that the alteration is not "apparent."

Mr. J. D. Crawford: Then was the addition of the word a "material alteration" of the note? He submitted not, as there was no suggestion that there was any other creditor except the Goderich Organ Company, Lim., in reference to the note. The alteration certainly did not fall within the class of material alterations enumerated in subsection (2) of section 64.

Mr. Justice Phillimore: A holder in due course for value who takes a bill or note which has been materially altered, but where the alteration is not apparent, can only enforce payment according to the original tenor of the bill; that means that the addition must be treated as struck out. In that case the endorsement in this case would not be a proper endorsement.

Mr. J. D. Crawford: "Original tenor" merely referred to such a matter as the amount of the bill. Then with regard to the point as to the note being unstamped, Canadian law did not require the document to be stamped, and counsel submitted that as the note was "issued" out of the United Kingdom—see the definition of "issue" in section 2 of the Bills of Exchange Act, 1882—it did not require to be stamped before it could be sued upon. Section 72, subsection (1), of the Bills of Exchange Act was as follows:—"Provided that (a) where a bill is issued out of 'the United Kingdom it is not invalid by reason only that 'it is not stamped in accordance with the law of the place 'of issue.'"

Mr. Justice Phillimore: That only means that a bill issued abroad is not invalid in England merely because the stamp requirements of the country of issue have not been complied with. It does not mean that the English stamp requirements have not to be satisfied. That is so even assuming this note was issued in Canada, which is doubtful, seeing it was made out and posted in this country. He referred to section 34 of the Stamp Act, 1891.

Mr. J. D. Crawford: The Stamp Act does not apply where the note is issued abroad.

Mr. J. W. Ross Brown, for the defendants, was not called upon to argue.

JUDGMENT.

Mr. Justice Phillimore, in giving judgment, said that he was inclined to take the view that the alteration of the note was not "apparent," and, therefore, the note was not vitiated on that ground in the hands of the plaintiffs, who were holders for value. He was not prepared to decide, nor was it now necessary to decide, whether the alteration was "material" or not. The effect of holding that the alteration was not apparent was to set up the note according to its original tenor; that was to set it up as if it was payable to the Goderich Organ Company. There had been a company of that name, but when the note in question reached Canada that company appeared to have been turned into a limited company, and the note came into the hands of the Goderich Organ Company, Lim. The proper officer of that company endorsed the note, and probably he was the person who added the word "Limited" on the face of the note, but as to that he had no information. He could not take the Goderich Organ Company, Lim., as meaning necessarily the same thing as the Goderich Organ Company; they were two distinct legal entities. The endorsement, therefore, by the Goderich Organ Company,

Lim., could not be regarded as equivalent to an endorsement by the Goderich Organ Company. The endorsement was, therefore, not in order, without prejudice, however, to a fresh action on a proper endorsement. There was, however, another and fatal objection to the note. It was not stamped. It was suggested that he should treat the document as issued out of the United Kingdom. He did not think he could so treat it in fact, but he would assume that he could. *Ex hypothesi* the place of issue was Canada, and the only effect of the proviso (a) in subsection (1) of section 72 of the Bills of Exchange Act, 1882, was to exclude any objection being taken in this country on the ground that the note had not been stamped according to the laws of Canada. That left entirely untouched the question whether objection could be taken to the note under the laws of the United Kingdom. Section 72, therefore, did not cover the present case. He had to look at the provisions of the Stamp Act, 1891, and under those provisions a bill or note had to be stamped before it passed out of the hands, custody, or power of the drawer. The note, therefore, should have been stamped. There must be judgment for the defendants, with costs.

(22 Times Law Reports, 722.)

KING'S BENCH DIVISION.

(Before WALTON, J.)

July 26 and 27.

Attorney-General v. Great Northern, Piccadilly, and Brompton Railway Company.

Revenue—Stamp Duty—Duty paid by Company on Nominal Share Capital which was not issued—Subsequent Grant of that Company's Rights to Defendant Company—"Increase of Capital"—No Statement Delivered—Claim by Crown for Penalties—Stamp Act, 1891, s. 113 (3).

Special case. An information was laid claiming £13,200 as penalties under section 113 (3) of the Stamp Act, 1891, against the defendant company for failure to deliver a statement of an increase of the amount of nominal share capital of the company as required by that section. The special case stated that in 1897 an Act was passed authorising the Brompton and Piccadilly Circus Railway Co. to construct a tube railway from Piccadilly Circus to South Kensington and to raise capital to the amount of £600,000. In 1899 an Act was passed to empower the Great Northern and Strand Railway Co. to construct a tube railway from Wood Green to the Strand, and to raise capital to the extent of £2,400,000. Both companies made returns of their nominal share capital, and paid duty thereon in accordance with the requirements of section 113 of the Stamp Act of 1891, although the Great Northern and Strand Railway Co. did not raise any part of their capital. In 1902 the Great Northern and Strand Railway Co. obtained an Act authorising the transfer of their undertaking and powers to the Brompton and Piccadilly Circus Railway Co., including the power to raise the £2,400,000 capital on which they had paid duty. No statement of an increase of nominal share capital was delivered by the defendant company subsequently to the passing of the

Brompton and Piccadilly Circus Railway Act, 1902, in respect of the £2,400,000 nominal share capital authorised by the Great Northern and Strand Railway Act, 1899. The questions for the Court were: (1) Whether there was by virtue of the Great Northern and Strand Railway Act, 1902, and the Brompton and Piccadilly Circus Railway Act, 1902, an increase of the nominal share capital of the defendant company in respect of the £2,400,000 authorised by the Great Northern and Strand Railway Act, 1899, within the meaning of section 113 of the Act of 1891: (2) Whether if there was such an increase of the nominal share capital of the defendant company they were liable notwithstanding the provisions of the Great Northern and Strand Railway Act, 1902, and the Brompton and Piccadilly Circus Railway Act, 1902, to render a statement of such increase of nominal share capital so as to be chargeable under the Stamp Act with an *ad valorem* stamp duty; and (3) whether the defendant company was liable to pay to His Majesty the above sum of £13,200 or any part thereof.

JUDGMENT.

Walton, J., in giving judgment, said the Crown contended that under the Strand Act of 1902 the Brompton and Piccadilly Circus Co. had been granted powers to increase their nominal share capital, and that as under section 113 of the Stamp Act a duty was payable on such grant, the company should have made a return of the increased capital and paid duty on the £2,400,000, notwithstanding that the Great Northern and Strand Railway Co. had already paid duty in respect of it. He thought that the effect of section 40 of the Great Northern and Strand Act, 1902, was to give new powers to the Brompton company; but if the £2,400,000 was raised by the defendant company it would be raised, not under any powers given by the Strand Act of 1902, but by the Strand Act of 1899. The Strand Act of 1902 was by its terms an Act amending the Strand Act of 1899, so as to enable the Brompton company to raise capital under the Act of 1899. In his opinion the Crown was not entitled to recover the sum claimed, for the stamp duty had already been paid in respect of this nominal capital, and was not payable a second time. Judgment, therefore, must be for the defendants.

(50 S.J. 669.)

Partnerships.

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

July 16.

(Before the Earl of HALSBURY, Lord MACNAGHTEN, Sir ARTHUR WILSON, and Sir ALFRED WILLS.)

Trimble and Bennett v. Goldberg.

Partnership—Transaction by Partner Outside Scope of Partnership—Secret Benefit—Right of other Partner to Share in Profits—Alleged Breach of Good Faith—Conflict between Duty and Interest.

This was an appeal from a judgment of the Supreme Court of the Transvaal of May 16 1905, reversing a decision of the Witwatersrand High Court at Johannesburg.

JUDGMENT.

Lord Macnaghten, in delivering their Lordships' judgment, said this was an action for account brought by the respondent against the appellants, who were associated with him in a partnership adventure. The trial took place before Mr. Justice Smith. On all questions of disputed fact and on all questions of law but one the Supreme Court agreed with the trial Judge. On one point they differed from him. Founding their opinion on an equity he had failed to appreciate or discover, they entered judgment for the respondent, declaring him entitled to share with the appellants in the profits of a purchase which they had made secretly and meant to keep to themselves. Considering the purchased property, though not within the scope of the partnership adventure, yet connected with it indirectly, and thinking the purchase injurious to the common interest, they held on general principles that the appellants were liable to account to their partner for any profit derived from the transaction; and they regarded the veil of secrecy as a damning proof of guilt and an aggravation of the wrong of which, in their view, Goldberg was entitled to complain. Goldberg was a land speculator. Trimble was an auctioneer; he had been acting chief detective of the whole of the Transvaal before the war. Bennett was a merchant in Durban in a good financial position. The partnership agreement between Goldberg, Trimble, and Bennett was dated February 10 1902. The object of the joint adventure was the purchase and resale of certain properties belonging to a gentleman named Hollard. They consisted of 5,500 shares in a company called the Sigma Syndicate, besides stands or plots of land laid off for building and other real estate in Johannesburg and elsewhere in South Africa. There was nothing special in the partnership agreement of February 10 1902. Profits and losses were to be shared equally. No partner was to sell or dispose of his interest without the consent in writing of his partners. All dealings with the property of the partnership were to be transacted by and through Trimble, to whom the other partners were to give powers of attorney. The Sigma Syndicate, whose full title was the Sigma Building Syndicate, Lim., had been formed in 1896, under the laws of the South African Republic, with limited liability. Its capital was £25,000 divided into 25,000 shares of £1 each, all fully paid up. The board of directors was to consist of at least four and at most six members of the company. The management of the company's affairs was committed to the board, "with the most extended powers and without limit or reserve." The powers of the board specially enumerated included "any purchase, sale, or exchange of immovable properties." The syndicate was formed for the purpose of making profit by purchasing and reselling a number of stands on Marshall Square and Government Square in Johannesburg.

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In the early part of 1902, Hollard, a wealthy man and a director of the Sigma Syndicate, was about to leave South Africa and anxious to dispose of everything he had there before quitting the country. He put all his properties on the market for sale through Goldberg, who was furnished with a schedule of the various lots showing their aggregate price and the value placed on each. The total was £94,566. The Sigma shares were put at £30,000. The schedule was accompanied by an elaborate report prepared by Mr. Dumat, an attorney in Johannesburg. Goldberg's original intention seemed to have been to form a syndicate for purchasing the property, charging the syndicate £9,500 as commission for his services. The gentlemen who were to compose the syndicate wanted further time. After carefully considering Dumat's report and expressing no little disappointment and dissatisfaction with it, Goldberg advised Hollard not to grant an extension of time to the syndicate and proposed to accept Hollard's offer and buy on his own account. Bennett and Trimble joined him in the adventure and the partnership agreement of February 10 1902 was arranged. To meet Hollard's requirements £12,500 was telegraphed in advance and Trimble was despatched to Johannesburg to complete the business. Armed with powers of attorney from his two partners, Trimble went to Johannesburg, saw Hollard there, and settled the terms of the purchase off-hand. The purchase deed was executed by Hollard and by Trimble on behalf of himself and his partners on February 14 1902. The purchase-price as proposed was £94,566. The sum of £12,500, which had been sent forward, was taken as part payment; the balance was secured by mortgage bonds over the several properties comprised in the purchase. After this matter was settled Trimble went one day with Hollard to see the stands belonging to the Sigma Syndicate. When they came to Government Square Trimble asked Hollard if the syndicate would sell the stands there *en bloc*. Hollard said, "Yes," adding that he thought the board would sell for £120,000. Trimble asked about conditions, and Hollard referred him to Davis, the secretary, who would, he said, lay the matter before the board. It seemed that the syndicate had tried without much success to sell their stands. They had put them up for sale by auction, but had only managed to sell one stand on Marshall Square. The board, holding as they did 23,000 shares out of 25,000, decided in the presence of all the shareholders to take £100,000 for their stands on Government Square, and negotiations were going on with the Government or the private secretary to his Excellency on that footing. Trimble, of course, was not made aware of that fact, and after some negotiation with Davis he was content to take an option to buy for £110,000. Trimble at once communicated with Bennett, and told him that he thought from some secret information he had gained, which

it seemed would not bear the light, that money was to be made out of the deal. He asked Bennett to join him in the speculation, intimating that he was prepared to give even a larger price. Bennett consented to join and to finance the enterprise. The directors of the syndicate were only too glad to accept Trimble's offer, and thus he secured the stands on Government Square for himself and Bennett for £110,000. Goldberg was not told anything about this purchase at the time. He did not hear of it until the end of 1902 or some time in 1903. Meeting Trimble one day in the street he said, "Don't you think you might have let me have a show in?" Later on, however, he took a more exalted view of his rights and brought this action, alleging that the partnership had given Trimble a mandate to buy the stands on joint account—an allegation which both Courts held not proved. He also contended that on general principles applicable to all cases of partnership he was entitled to share with his partners in the benefit of their purchase. On that ground the Court of Appeal gave effect to his claim. It seemed to their Lordships that the judgment of the Court of Appeal was not well founded. The purchase was not within the scope of the partnership. The subject of the purchase was not part of the business of the partnership or an undertaking in rivalry with the partnership, or, indeed, connected with it in any proper sense. Nor was the information on which Trimble acted acquired by reason of his position as partner or even of his connection with the Sigma Syndicate. The way in which the information was acquired might have been much to Trimble's discredit, as the Court of Appeal had pointed out; but Goldberg was not in a position to complain of that. He at least was not averse to sharing the profit to which it seemed to have conduced. Now if the purchase from Hollard had been completed so far as to make the partnership the absolute and unencumbered owner of the 5,500 shares in the Sigma Syndicate, and if those shares had been divided between the three partners and registered in their separate names, any one of the three would have had as good a right to buy any property of the syndicate which the directors might think fit to offer for sale as any other shareholder in the syndicate or any member of the general public. The Court of Appeal appeared to have regarded the purchase, though not expressly prohibited by the partnership articles, as a breach of good faith and consequently as a violation of the fundamental condition of the partnership. Suppose it had been forbidden in express terms, what would have been the result? The other partner or partners discovering the breach of contract might have claimed immediate dissolution, or even damages, on proof of actual loss to the partnership. But a claim to share in the profits of the forbidden purchase would not have been warranted by principle or precedent. And here there was no loss to the partnership; only a

disappointment to the partner left out in the cold. The purchase apparently was an advantage to the partnership. Through it the directors of the Sigma Syndicate were enabled to obtain for their property £10,000 more than they would have obtained if they had sold to the Government at their own price. And the partnership, as a shareholder in the syndicate, was proportionately the gainer. The Court of Appeal seemed to have been much impressed by the secrecy of the transaction. No doubt it would have been better if Goldberg had been told at the time that Trimble and Bennett were making this purchase. In a case in the House of Lords (*Cassels v. Stewart*, 6 App. Cas. 64, at p. 80), Lord Blackburn observed:—"I generally think it 'is advisable as a matter of prudence as well as on other 'grounds to let everything be above board.' That was a very proper sentiment, worthy, perhaps, of a more unhesitating acceptance. But still there was no legal obligation on Trimble or Bennett to tell Goldberg what they were doing unless he had a right to take part in the speculation if he chose to do so. Their excuse for silence was that they considered Goldberg an undesirable partner and not financially strong. The Court of Appeal laid some stress on a provision in the articles of association of the Sigma Syndicate which stated that 'each share gives, according 'to the issued shares, a right to a proportionate share in 'the ownership of the company's assets and in the dis-'tribution of profits.' But there was nothing special in that provision. It was no more than an accurate description of the position of every shareholder in every trading company limited by shares. Then there was an argument which it was very difficult to follow. It was said that the moment Trimble determined to buy these stands he put himself in a position in which his interest and his duty conflicted. It was his interest to buy as cheaply as he could. It was his duty to sell the Sigma shares as dearly as possible. The value of the shares depended on the value of the stands, and so it was his duty to enhance the value of the stands by every legitimate means in his power. He ought not to have thought of buying them for less than the utmost price he felt he might have been forced or tempted to give. He knew he was buying cheaply; he told Bennett so. The fallacy of that line of argument lay in assuming that Trimble had anything to do with selling the stands or any right to meddle with the conduct of the sale. That was in the hands of the directors. They were dealing at arm's length with him. It seemed extravagant to suppose that he would have advanced the interests of the partnership by retiring from the field and declining to enter into a competition which actually had the effect of raising the price of the stands and so improving the value of the Sigma shares. No authority was cited in support of the conclusion at which the Court of Appeal arrived. But there were several cases in which arguments similar to those which prevailed with that Court had been urged,

and urged unsuccessfully. Perhaps the most instructive were *Dean v. MacDowell* (8 Ch.D. 345) and *Cassels v. Stewart* (6 App. Cas. 64). The two cases had much in common, and it will be sufficient to refer to the latter. In *Cassels v. Stewart*, which was an appeal from two concurrent judgments in Scotland, three gentlemen, Reid, Cassels, and Stewart, were partners in an undertaking called the Glasgow Iron Company. The contract of co-partnership contained an article forbidding any partner to assign his interest, or give any person or persons a right to interfere with the business, and declaring, further, that any such assignation should be of no effect as regards the company. There was also a clause declaring that, on the retirement of a partner, the remaining partners should have power to buy his interest at the amount standing to his credit at the last balance. Reid sold all his interest to Stewart. Reid's name, however, remained on the books, and he signed all deeds relating to the business until his death, which occurred seven years after the sale. Cassels was not till then informed of the arrangement. When he found it out he claimed to participate in the purchase, on the ground (1) that a mandate had been given to Stewart to buy Reid's interest for the partnership; (2) that under the terms of the partnership agreement the purchase could only be legally made with his consent; and (3) that Stewart had secretly acquired a benefit for himself within the scope of the partnership business. It was held that the alleged mandate was not proved. But it was argued by Sir Farrer Herschell, then Solicitor-General, and the Lord Advocate, that, putting aside the alleged mandate, "the agreement 'was entered into under such circumstances as to entitle 'the appellant to participate in it'; 'the acquisition of 'shares of outgoing partners . . . was one of the 'objects of the company.'" "Apart from the express terms 'of the contract, the secret agreement by which the 'respondent acquired for himself alone a benefit falling 'within the scope of the partnership business was a 'breach of the good faith of the partnership, and when such 'a benefit was acquired each partner had a right to demand 'that it should be communicated to the whole of them 'equally'; 'on general principles it was inequitable 'having regard to the fiduciary relations due to each other, 'that such an agreement should be made behind the back 'of another partner.'" Without calling on the respondent, the House, consisting of Lord Selborne (Lord Chancellor), and Lords Penzance, Blackburn, and Watson, dismissed the appeal. It seemed to their Lordships that the decision of the Supreme Court of the Transvaal in the present case could not stand with the decision in *Cassels v. Stewart*. There was at least as close a connection between the partnership and the partner's purchase in that case as there was in this. In their Lordships' opinion the order under appeal could not be supported on authority or on any recognised doctrine of equity. Their Lordships would therefore humbly advise his Majesty that the appeal should be allowed, the order of Mr. Justice Smith restored, and the appeal from that order dismissed with costs. The respondent would pay the costs of the appeal.

Law Reports.

Accountancy and Auditing.

LORD MAYOR'S COURT.

August 3.

(Before Mr. BOSANQUET, K.C., Common Serjeant, and a Jury.)

Gillham v. Robertson.

Accountant—Application for Return of Money paid for Procuring Auditorships of Companies.

Mr. J. C. E. Gillham, Chartered Accountant, of Great Winchester Street, sued Mr. D. Robertson, a company manager, of Palmerston House, for £19 4s. The plaintiff gave evidence that he paid the sum claimed on the defendant's promise to procure for him auditorships in certain companies named, and that the appointments were never made. Mr. W. H. Weber, who was a director for a time of one of the companies, said he could not state whether the company was registered. During his connection with it, the company was only in embryo. The gentlemen named as directors met occasionally, and, so far as they could settle the matter, Mr. Gillham, or his nominee, was appointed the auditor.

Mr. W. Harvey, a director of the Australian Copper Trust, said that the plaintiff was appointed the auditor. The company continued to exist, but it had done no business.

For the defence it was said that the defendant had stipulated that a gentleman named Berger, who occupied a seat in the defendant's office, was to have nothing to do with the business, whereas details were given to that gentleman. Introductions of the plaintiff to companies were made, and wherever possible the plaintiff was appointed the auditor.

The jury found a verdict for the plaintiff, and judgment was entered accordingly, with costs of various applications.

(City Press.)

LORD MAYOR'S COURT.

August 7.

(Before Mr. BOSANQUET, K.C., Common Serjeant, and a Common Jury.)

Stieljens v. Walshe.

Accountant's Charges.

Mr. Ernest Stieljens, a Dutch gentleman, who has been practising in this country for some years as an accountant, sued Mr. Michael C. Walshe, of Air Street, Manchester Square, to recover £63 for professional services rendered. The defendant formerly had a considerable interest in a newspaper called *The Universe*. He was dissatisfied, it was said, with the progress of the paper, and employed the plaintiff to "find out what was wrong." For that purpose the latter was

instructed to go to the office, place himself at the disposal of the editor and manager, and attend to the accounts and the publishing. No remuneration was fixed, but the plaintiff entered upon his duties, and at the expiration of a fortnight reported to the defendant the cause of the loss. Then, according to his case, he was instructed to continue his duties. He did so for a further period of 21 weeks. Now he claimed 23 weeks' salary at the rate of £4 per week, less sums which he had received. When the defendant, as debenture-holder, took possession, the plaintiff entered the employment of the receiver at a salary of 30s. a week. Afterwards, when he pressed the defendant for payment, he was referred to the receiver. Defendant denied that he ever engaged the plaintiff as an accountant, or that he asked him to stay on. He resigned his position as director of the company in May 1905, and it was not until October that he received any demand from the plaintiff. He at once replied, repudiating the claim. In cross-examination, he suggested that Mr. Silles, a director, who introduced him to the plaintiff, was liable, if anyone.

The jury found a verdict for the defendant.

(City Press.)

Administrations.

CHANCERY DIVISION.

August 3 and 9.

(Before SWINFEN-EADY, J.)

In re Robbins; Robbins v. Legg.

Will—Annuity—Death of Annuitant before Purchase of Government Annuity—Right to Receive Value of Annuity.

Adjourned summons.

By his will dated February 27 1900 John Barnabas Robbins, after appointing the defendants to be his executors and trustees, and after certain devises and bequests, gave and bequeathed all his residuary real and personal estate to his trustees upon trust to convert the same, and out of the proceeds to pay all his debts, funeral and testamentary expenses, and to purchase in the name of his wife, Jemima Charlotte Robbins, a Government annuity of the clear annual value of £400 for the life of his said wife. He also gave certain pecuniary legacies, and subject thereto gave the residue of his estate to the plaintiff, Henry John Robbins.

The testator died on October 11 1905, and his will (together with a codicil not material to this report) was duly proved by all the executors on November 25 1905.

The testator's widow, J. C. Robbins, survived the testator, but died sixteen days later, on October 27 1905. As the will had not then been proved, no steps had been taken with regard to the purchase of the annuity.

The defendants, Henry Arthur Legg and George Davis, were the administrators to the estate of the widow, J. C. Robbins, and they now claimed to be entitled to the

amount which would have been required to purchase the annuity of £400 for Mrs. Robbins at the date of the testator's death.

JUDGMENT.

Swinfen-Eady, J., said that it was contended by the plaintiff that as it had been impossible to purchase the annuity owing to the death of the proposed annuitant, her legal personal representatives had no claim in respect of the annuity. The representatives of the widow, on the other hand, contended that the annuity vested in the widow at the date of the death of the testator. *Bayley v. Bishop* (1803, 9 Ves 6) showed that it was not necessary for a legatee to survive the period at which the annuity was purchasable. But it was sought to distinguish the case on the ground that in *Bayley v. Bishop* there was a direction to invest a named sum in the purchase of an annuity, so that there was a gift of that named sum, whereas here the direction was to purchase an annuity for a particular amount. This was disposed of by *Dawson v. Hearn* (1831, 9 L.J. Rep. (o.s.) 249: 1 R. & M. 606, 613), where Lord Chancellor Brougham stated in the course of his judgment that this made no difference. An annuity was payable as from the death of the testator; and therefore the widow's representative was entitled to such a sum as would have purchased the annuity at the death of the testator.

(L.J. 562.)

Bankruptcies and Insolvencies.

COURT OF APPEAL.

July 16 and August 9.

(Before WILLIAMS, ROMER, and FLETCHER
MOULTON, L.JJ.)

Ponsford, Baker & Co. v. The Union of London and Smiths Bank, Lim.

Mortgage—Act of Bankruptcy by Mortgagor—Knowledge of Mortgagees—Re-delivery of Security—Possible Bankruptcy Proceedings—Relation Back of Trustees' Title—Liability of Mortgagees—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 49.

This was an appeal from a decision of Buckley, J. (noted 34 *Actt.* L.R. 77).

Messrs. Ponsford, Baker & Co. and the official assignee of the Stock Exchange moved in an action against the defendant bank for an order that the bank should deliver up certain securities held by them on payment of the amount due to them. Ponsford, Baker & Co. were in April 1906 declared defaulters on the Stock Exchange. At the time they had deposited with the bank certain securities as security for a loan. A balance on current account was due from the bank to them. The plaintiffs tendered the amount

due to the bank, and called on them to hand over the securities. The bank declined to hand over the securities and transfer the balance on the ground that they had notice of an act of bankruptcy, and would not be safe in handing over the property till the expiration of three months, since if bankruptcy proceedings were taken during that period the title of the trustee would relate back.

Buckley, J., said that *In re Lawford and Lawrence* (71 L.J. Rep. K. B. 786; L. R. (1902) 2 K. B. 445) was directly in point, and ordered the bank to hand over the securities on payment of the amount due to them, after giving credit for the amount due from them.

The motion was treated by consent as the hearing of the action.

The defendants appealed.

JUDGMENT.

Their Lordships allowed the appeal, holding that a person who had committed an act of bankruptcy had not the right to require a secured creditor, who had notice of the act of bankruptcy, to give up his securities on payment of the amount due. If the assignee was prepared in the present case to pay the money due on the securities and to undertake to hold them until bankruptcy proceedings were taken or the period of three months had expired, their Lordships were of opinion that they ought to make an order empowering him so to do. If he were not so prepared, their Lordships thought they ought not to give any immediate judgment, but ought to direct the action to stand over until it could be seen who was the person entitled to redeem.

Appeal allowed.

(L. J. 560.)

COURT OF APPEAL.

August 3.

(Before COLLINS, M.R., MOULTON and FARWELL, L.JJ.)

Davis v. Petrie.

Bankruptcy—Protected Transaction—Relation back of Trustee's Title—Payment made to Trustee of Creditors' Deed—Election—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), secs. 43, 49.

This was an appeal by the defendant from the judgment of the Divisional Court (the Lord Chief Justice, Mr. Justice Kennedy, and Mr. Justice Ridley) upon appeal from the judgment of the Judge of the Brompton County Court in favour of the defendant. The case is reported in 21 *The Times* L.R. 610; (1905) 2 K.B. 528. The plaintiff, who was the trustee in the bankruptcy of W. Watson, a builder, sued the defendant for £21 for work done by the bankrupt. The defendant pleaded payment by a cheque for £21, dated June 12 1903, drawn in favour of Charles Afford, trustee and assignee under a deed dated June 5 1903, executed by Watson, whereby he assigned all his property to Afford on trust for sale, conversion, and collection, and for payment

to the creditors. On June 6 the trustee under the deed gave notice of the assignment to the defendant and claimed payment of the £21 due from her to Watson. The defendant paid him the £21 by cheque on June 12. A petition in bankruptcy having been presented against Watson alleging the execution of the deed of June 5 as an act of bankruptcy, a receiving order was made against him on August 20 1903, and he was adjudicated bankrupt. There was no evidence that the £21 was paid over by the trustee under the deed to the trustee in bankruptcy. The trustee in bankruptcy claimed this sum from the defendant and brought an action in the County Court to recover it, upon the ground that the payment to the trustee under the deed was made with full knowledge that the deed was an act of bankruptcy and that, as the receiving order was made within three months of the act of bankruptcy, the deed was void under section 43 of the Bankruptcy Act, 1883, the payment was not protected, and the defendant could not rely upon payment to the trustee under the deed. It appeared that the trustee under the deed received about £500 in respect of the bankrupt's estate, and paid away various sums under the deed; and upon the request of the Official Receiver, acting as the trustee in bankruptcy, for an account and payment of the balance in his hands, the trustee under the deed, on September 3 1903, sent to the Official Receiver the sum of £100, which the latter received. The County Court Judge gave judgment for the defendant. The Divisional Court held that the payment to the trustee under the deed was not a protected transaction, and that the trustee in bankruptcy, by taking the £100, had not in the circumstances elected to treat the deed as a valid deed and the trustee under the deed as his agent. They accordingly gave judgment for the plaintiff.

Mr. Frank Mellor, for the defendant, contended that the trustee in bankruptcy had two courses open to him with respect to the deed of assignment. He might either treat the trustee under the deed as his agent, to collect the debts, and call upon him to account for the moneys collected by him, in which case he would elect to treat the deed as a valid deed, or he might treat the deed as void against him under section 43 of the Bankruptcy Act, 1883, and the trustee under the deed as a trespasser, and claim damages for conversion—that was to say, he could claim as damages an account of the value of the property converted. The conversion was all one act, and the trustee in bankruptcy could not separate the transaction into two parts and elect to affirm the deed as to part of the property, and to treat it as void as to the rest of the property. By accepting the £100 the trustee in bankruptcy had made his election, and he could not subsequently turn round and treat the trustee under the deed as a trespasser. He referred upon this point to *Ex parte Vaughan* (14 Q.B.D. 25), *In re Ely* (48 W.R. 693), *In re*

Hirth (1899, 1 Q.B. 612), *Smith v. Baker* (L.R. 8 C.P. 350), *In re Mardon* (1896, 1 Q.B. 140). Secondly, the trustee in bankruptcy, having taken £100 under the deed, must make a proportionate allowance to the defendant in respect of her debt of £21. That would reduce the debt to a sum less than £20, and would affect the costs of the action.

Mr. S. R. Earle, for the plaintiff, was not called upon.

JUDGMENT.

The Court dismissed the appeal.

The Master of the Rolls said that this was an appeal from the judgment of the Divisional Court, who held that in the circumstances of the case the defendant had no defence to the claim. Watson, who was a builder, being in difficulties, executed a deed of assignment to a trustee for the benefit of his creditors, and Afford was appointed trustee under the deed. Debts were due to Watson, including a debt of £21 from the defendant, and upon request the defendant paid this amount to the trustee under the deed. Within three months after the execution of the deed a receiving order was made against Watson, and he was adjudicated bankrupt, and the trustee in bankruptcy sued the defendant for the £21. Her answer was that she had paid that sum to the trustee under the deed. The question was whether that was a good answer to the claim. The trustee in bankruptcy had received £100 from the trustee under the deed—a sum which represented about one-fifth of the total sum received by him as trustee under the deed. The first point raised was that the trustee in bankruptcy, by taking the £100 from the trustee under the deed, had thereby made the latter his agent in the whole transaction, and had debarred himself from suing the defendant for the debt which she had already paid to the trustee under the deed. That point involved this—that there could be only one election, and that, if the trustee in bankruptcy had treated the trustee under the deed as his agent for one matter included in the transaction, he would be debarred from treating the trustee under the deed as a trespasser in any other matters in that same transaction, and from claiming a sum from a debtor to the estate who set up that he had paid it to the trustee's agent—namely, the trustee under the deed. In his opinion no such proposition could be maintained by a third person. The fact that the trustee under the deed had received and accounted to the trustee in bankruptcy for part of the proceeds of the estate did not alter the position of the trustee in bankruptcy and his rights as regards third persons. He would take this case. An action was brought by the trustee in bankruptcy against a debtor to the estate, and the debtor pleaded that the trustee in the bankruptcy had received £100 from the trustee under the deed, part of the bankrupt's estate received by him, and that he (the debtor) had paid the debt for which he was being sued to the trustee under the deed, and that, therefore, the action

could not lie. That would be no answer to the action, unless it were shown that the trustee in bankruptcy had received part of the defendant's money. If it were otherwise, it would carry the doctrine of election too far. That doctrine applied as between two persons, one of whom had elected to act upon one of two alternative views of his rights, and in such a case he could not as against the other person, or any one claiming under him, recur to the inconsistent alternative view of his rights. But when dealing with a third person, as in the present case, who was no party to the election, it was a question of fact, aye or no, was the trustee under the deed the agent of the trustee in bankruptcy, and the mere fact that the trustee in bankruptcy had elected to adopt one part of the transaction by taking over certain money collected and acquired by the trustee under the deed for the estate, and treating it as part of the bankrupt's estate, did not affect the right of the trustee in bankruptcy as against third parties who had nothing to say to it. That was not even evidence that the trustee under the deed was the agent for the trustee in bankruptcy, and there was no other evidence of agency. The second point was that the defendant was entitled to be credited with a proportionate part of the £100 received by the trustee in bankruptcy, which would have the effect of reducing her debt to something under £20, and which would, therefore, affect the costs of the action. That depended upon whether the defendant could prove—and the onus was upon her—that the £100 was available in reduction of her debt—in other words, that the trustee in the bankruptcy had received any portion of the defendant's £21. There was no evidence of that. The appeal, therefore, failed, and must be dismissed.

Lord Justice Moulton was of the same opinion. The execution of the deed of assignment was an act of bankruptcy, and if bankruptcy proceedings were taken within three months it would be void as against the trustee in bankruptcy. Anybody who, under that assignment, arrogated to himself and exercised a right to receive any portion of the estate as the trustee for the creditors under the deed did so at his peril, and those who recognised that right also did so at their peril, and upon bankruptcy supervening the trustee under the deed, as Mr. Justice Vaughan Williams said in *In re Mardon* (1896, 1 Q.B., at p. 144), became accountable as trustee *de son tort* for the assets that had come to his hands. The trustee in bankruptcy had a right to require him as a trustee *de son tort* to give up the assets in his hands. A payment to the trustee under the deed by a debtor to the estate was a payment to the wrong person, and the trustee in bankruptcy was entitled to sue the debtor to recover the debt. But if the person who was sued could show that the trustee in bankruptcy had in fact been paid the debt in whole or in part in consequence of proceedings taken under the deed,

that would be *pro tanto* a defence to the action. He would take the case of a carriage which was in the hands of a bailee from the bankrupt, and delivery of which the trustee under the deed demanded from the bailee. If the carriage then passed into the hands of the trustee under the deed and remained in his hands, and he was willing to hand it over, it would be most inequitable that there should be no defence if the trustee in bankruptcy claimed the carriage from the bailee. So, too, in the case of money, if it could be traced, which was not an easy matter, he did not say that the principle of proportionate abatement might not be had recourse to. But in the present case there was no evidence that in receiving the £100 from the trustee under the deed the trustee in bankruptcy received any portion of the £21 paid by the defendant to the former. The onus was upon the defendant to show that, and there was no evidence of it. There was, in his opinion, no defence whatever to the action.

Lord Justice Farwell was of the same opinion. When it was once realised that the principles of equity applied the case became clear. The trustee under the deed knew of the act of bankruptcy. Upon bankruptcy supervening he became a trustee *de son tort*, and the trustee in bankruptcy could call upon him to account for the estate of the bankrupt, and to hand over to him any moneys belonging to that estate in his hands. To say that if the trustee in bankruptcy did that it was an election by him to recognise the deed and to treat the trustee under the deed as his agent to collect the debts, so that third parties could take advantage of it and set it up as an answer to a claim by the trustee in bankruptcy to recover the debts as against them, was quite wrong. If he (the Lord Justice) had to decide the point, he would wish to hear further argument upon the question whether the trustee in bankruptcy could under section 56 of the Bankruptcy Act, 1883, without the permission of the committee of inspection, make such an election, or whether the case did not come within section 57, which made the permission of the committee of inspection a condition precedent to the power of the trustee to act in the matter. It was unnecessary to consider that question. Here the trustee in bankruptcy had called upon the trustee under the deed to hand over the estate of the bankrupt in his hands. That only gave a debtor to the estate a right to say that among the money so handed over to the trustee in bankruptcy was the money which he had paid to the trustee under the deed in respect of his debt. *In re Hallett's Estate* (13 Ch.D. 696) showed that money could, in some circumstances, be traced, and in considering whether any part of the money handed over was made up of the money paid by the debtor to the trustee under the deed the rule in *Clayton's case* (1 Mer. 572), as modified by *In re Sherry; London and County Banking Co. v. Terry* (25 Ch.D. 692), would be

applied. There was no attempt to do anything of the kind here. The defendant paid the £21 to the trustee under the deed on June 12 1903, and the trustee under the deed collected over £500 of the estate of the bankrupt. It was not until September 3 that the trustee under the deed handed over the £100 to the trustee in bankruptcy. No attempt was made to trace the £21 or any part thereof into that £100, and in the circumstances it would be exceedingly difficult, if not almost impossible, to do so. The result was that the appeal entirely failed. Nothing that they had said in any way touched what was decided in *Ex parte Vaughan*, which showed that the trustee in bankruptcy could not take advantage of the efforts of the trustee *de son tort* without compensating him for his expense and trouble in the matter.

(22 *Times Law Reports*, 771.)

Company Law.

CHANCERY DIVISION.

July 21.

(Before SWINFEN-EADY, J.)

In re The Companies Acts, 1862 to 1900, and in re The Educational and Commercial Publishing Company, Lim.

Company—Winding-up—Name of Company ordered to be restored to Register.

The name of the above company, the registered office of which is at 49 Deansgate, Manchester, was struck off the Register of Joint Stock Companies in England in February last, under section 7 of the Companies Act, 1880, as not carrying on business, the company having taken no notice of the inquiries and notices which the Registrar had respectively addressed to them and published in the *London Gazette* as required by the section. On the petition of a creditor, who in March obtained a winding-up order in the Lancashire County Court, the name of the company was now ordered to be restored to the register and the order of the County Court for winding up continued.

(*Times*.)

CHANCERY DIVISION.

July 21.

(Before SWINFEN-EADY, J.)

In re The Beal Spinning Company (Limited and Reduced), and in re The Companies Acts, 1867 and 1877.

Company—Application for Reduction of Capital.

This was a petition to reduce the capital of the company from £100,000 in 10,000 shares of £10 each (all of which have been issued, and on each of which the sum of £3 has

been paid) to £50,000 in 10,000 shares of £5 each, the reduction to be effected by extinguishing £5 of the £7 liability on each of the shares. The evidence adduced showed that the company, which carries on business at Shaw, near Oldham, has been a successful one, the reason for the proposed reduction being that whereas it was originally intended to establish two mills, one has been found ample for the requirements of the company, in view of the increase in the number of mills in the district. All the creditors of the company had assented to the proposal.

JUDGMENT.

Mr. Justice Swinfen-Eady made the order as prayed—the use of the additional word “reduced” being limited to one month.

(*Times*.)

CHANCERY DIVISION.

August 10.

(Before BUCKLEY, J.)

In re Cardiff Workmen's Cottage Company, Lim.

Company—Debentures—Registration—Extension of Time—Conditions as to Unsecured Creditors—“Just and Equitable”—Companies Act, 1900 (63 & 64 Vict. c. 48), s. 15.

In this case an application was made on August 3 by the company, under section 15 of the Companies Act, 1900, for an extension of time to register certain debentures of the company issued in February 1905, and which had not been registered owing to inadvertence. There was evidence that the company was in a sound financial condition and that no creditor was suing or threatening to sue the company. In consequence of the recent decision of the Court of Appeal in *In re Ehrmann Brothers, Lim.* (35 *Acct. L.R.* 29; (1906) *W.N.* 169) there was considerable discussion as to whether and how conditions ought to be imposed for the protection of unsecured creditors.

JUDGMENT.

Mr. Justice Buckley reserved judgment, which he delivered as follows:—This is an application under section 15 of the Companies Act, 1900, to extend the time for registration of certain debentures. The recent decision of the Court of Appeal in *In re Ehrmann Brothers, Lim.* (*supra*), renders it necessary to determine a point which is new as matter of decision, although I am not without assistance by way of dictum. In *In re Joplin Brewery Company* (1902, 1 *Ch.* 79) I thought it right that orders under this section should contain words expressing the order to be without prejudice to the rights of parties acquired prior to the time when the debentures are actually registered. In *In re Johnson & Co., Lim.* (1902 2 *Ch.* 101), the Court of Appeal had to consider and determine what words of qualification it was necessary to add for the purpose of giving effect to contractual right

contained in debentures which, under the terms of issue, were all to rank *pari passu*. They adopted the words "rights acquired," which I had used in *In re Joplin Brewery Company*, and qualified them by words so expressed as to give effect to the contractual right in the debentures to rank *pari passu inter se*. In *In re Ehrmann Brothers, Lim.*, the question for decision was what were the "rights" which under that form of words were protected and preserved. It was held that they were only rights acquired against property; that the words did not protect unsecured creditors who had obtained no charge upon property. In *In re Johnson & Co., Lim.*, the Master of the Rolls had said (at p. 108) that "it is not necessary for us in this case to decide whether any creditor who had not actually issued execution is a creditor who ought to be protected and who ought to displace the rights of those who were not registered until after his debt had accrued." And, later, near the bottom of p. 109, that "it is not necessary for the Court to decide any point about creditors, whether execution creditors or others." The Court, therefore, left open for future decision the question whether unsecured creditors ought to be protected. I have now to decide that point. In *In re Ehrmann Brothers, Lim.*, the question argued and decided was not what were the proper terms to impose, but what was the legal effect of the terms which had been imposed. The Court there decided that the words in *In re Joplin Brewery Company* and in *In re Johnson & Co., Lim.*, do not protect unsecured creditors. In these circumstances I have to consider whether they ought to be protected—whether I ought to insert words such as the following:—"Provided always that the security conferred by the debentures for whose registration the time is extended shall not, as against any creditor of the company who shall have become a creditor after the date when those debentures ought to have been registered, and before the time when they shall be actually registered, be of any greater validity than if this order had not been made." Neither in *Crew v. Cummings* (21 Q.B.D. 420), nor in *In re Johnson & Co. Lim.*, nor in *In re Ehrmann Brothers, Lim.*, did this question arise for decision. By way of dictum, however, I think there are indications that serve as some guide. Looking at the matter upon principle, I have to see, in the language of section 15, what terms and conditions seem to me "just and expedient" as terms to be imposed in an order extending the time for registration. The debentures in the present case were issued in February 1905. Let me assume that persons became creditors of the company subsequent to that date whose debts are still unpaid. If before giving credit they had looked at the register kept under section 14, they would not have found these debentures there. They may have given credit on the faith that they did not exist. At the present moment the holders of these unregistered

debentures have as against these creditors no security. The statute makes the security void as against them. The purpose of the Act of Parliament in requiring within twenty-one days registration of securities on the company's property is to ensure the means of notice to those who contemplate giving credit to the company. These creditors of date subsequent to February 1905 are entitled to say that they gave credit upon the footing that these debentures did not exist, inasmuch as they were not registered, that the statute makes the debentures void as against them, and, if they were here (which unfortunately they are not), they might argue that justice requires that the *status quo* should, so far as they are concerned, be maintained. Upon the first consideration of the matter this might seem right, but the answer to it, I think, is as follows:—If the company now cancelled these unregistered debentures they could issue to their late holders new debentures and register them within twenty-one days, and those debentures would be valid subject to attack (if attack could successfully be made upon them) upon the ground of fraudulent preference. The person who is at any moment the unsecured creditor of the company is always exposed to the danger that the company may execute in favour of other creditors encumbrances upon its property, and unless he can attack those securities on the ground of fraudulent preference, they prevail as against him. So long as the company is a going concern the creditor who has obtained no charge upon property necessarily runs the risk of dispositions made by the company by sale, mortgage, or otherwise. I am conscious that this view renders the section of the Act of 1900 which requires registration of encumbrances of much less value. I incline to the opinion that when a case of sufficient magnitude arises it may be well to give notice to some of the unsecured creditors of substantial amount so as to give them an opportunity of being heard, if they so desire, upon the question of what is "just and expedient" in their interest. I can anticipate a contention that it might be just (say) to require the order to be advertised and its operations suspended for a certain time in order to enable unsecured creditors to come in and ask for payment or security before validity is given to the void debentures, or to ask for terms similar to those found in section 1, subsection 2 (b), of the Companies (Memorandum of Association) Act, 1890. And I can foresee a possible answer to that contention. Looking at the affidavit in the present case, I do not think it necessary to take that course in the present instance. In the circumstances of this case, I think I may, without inserting for the protection of the unsecured creditors any words such as above suggested, make the order upon the terms imposed in *In re Johnson & Co., Lim.*, notwithstanding the fact that it has been decided that that form of order does not protect the unsecured creditors. I make the order accordingly.

Miscellaneous.**JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.**

July 27.

(Before the Earl of HALSBURY, Lord MACNAGHTEN, Sir ARTHUR WILSON, and Sir ALFRED WILLS.)

The Colonial Bank of Australasia, Lim. v. Marshall and another.

Banker—Cheque—Negligence of Drawer—Leaving Space before Amount—Fraudulent Alteration—Estoppel.

This was an appeal from a judgment of the High Court of Australia (reported in 1 Com. L.R. 632), reversing a decision of the Supreme Court of Victoria and a judgment of Chief Justice Madden (reported in 29 V.L.R. 804).

JUDGMENT.

Sir Arthur Wilson, in delivering the judgment of the Board, said that the two respondents, Marshall and Day, and one Myers, were executors of Ann Myers. As such they opened an account with the appellant company in Melbourne on March 24 1900, when they paid in £1,596 15s. 2d. Against that account cheques were from time to time drawn, signed by the three executors. On May 25, before any of such cheques were drawn, the three executors addressed a letter to the bank, requesting it to pay cheques signed by the three and sent specimens of their signatures. Myers, who alone resided at Melbourne, drew each of the cheques, sent it for signature to Marshall, who signed first, then to Day, who signed second, and finally added his own signature. The present controversy related to five cheques, which, as originally drawn by Myers, and signed by Marshall and Day, were for £10, £2 6s. 4d., £50, £10, and £10. But each of those cheques was so written out as to leave a space between the left-hand margin and the statement of the amount of the cheque, both as given in words and as given in figures, and in that condition it was signed by Marshall and Day. Myers, by acts amounting to simple forgery, added words and figures to the left of those originally written in the cheques, so turning them apparently into cheques for £110, £32 6s. 4d., £150, £110, and £110. The cheques in their altered forms were presented to and paid by the bank. And it had been found (and their Lordships accepted the finding) that the bank could not, by the exercise of ordinary care and caution, have avoided paying the cheques as altered. When the forgeries came to light, the bank claimed to debit the executors' account with the amounts of the cheques as paid by it in their altered form; whilst the respondents contended that the debit should only be of the original amounts of the cheques. The aggregate of the differences was £430. The suit was then

brought in the Supreme Court by the respondents against the bank. The defence raised the whole question now material in a paragraph which said:—"If the said cheques or any of them were fraudulently altered and increased in amount, such cheques were, and each of them was, drawn by the plaintiffs and the defendant Myers without reasonable care or precaution, and in a manner and form so negligent that they enabled and permitted the alterations and erasures, if any." And it was contended that the plaintiffs were "estopped from alleging that the cheques so altered and increased in amount were not their cheques or drawn by them or with their authority and from alleging that the cheques, or any of them, were, in fact, fraudulently altered and increased in amount." The case was tried before Chief Justice Madden and a jury. The Chief Justice left to the jury the question, "Were the cheques, or any of them, drawn by the plaintiffs negligently, having regard to what I have told you?" And he proceeded to say, "If a customer of a bank is drawing a cheque upon that bank, it appears, according to our law (as I think it still exists), that the customer is bound to avoid such negligence in drawing out his cheque as will unreasonably expose the banker to the risk of having to pay more than the proper amount of the cheque which was drawn out by such customer." The Chief Justice afterwards expressed his view a little more fully by saying, "If you draw a cheque in a manner which a jury thinks is so negligent that it induced or caused opportunity to a person who chances to be desirous of committing a forgery to effect that forgery, so that the banker is exposed to the paying of a larger sum than you—the customer—intended when you signed the cheque, then the law is that if a jury is of opinion that such action of the customer amounts to negligence, and negligence of such a kind as, in the opinion of the jury, ought to preclude him from complaining of the fact that the banker paid the altered cheque, then the customer cannot complain against the bank." The jury answered the question in the affirmative and found a verdict for the bank. The full Court, on appeal, approved the ruling of the Chief Justice and affirmed the judgment. The High Court of Australia reversed that decision, holding that the Chief Justice's ruling was not in accordance with law and that there was no evidence of negligence proper to be left to the jury. Against that decision of the High Court the present appeal was brought. In the course of the argument before their Lordships, as well as in the Courts in Australia, much was said about the case of *Young v. Grote* (4 Bing. 253). That case, however, was critically examined in the House of Lords in *Scholfield v. Earl of Lonsborough* (1896, A.C. 514), and the latter had now become the governing authority which must prevail so far as

principles laid down in it extended. In order to appreciate the effect of that decision, it is necessary to notice the history of the case and the manner in which it came before the House of Lords. The suit was by a holder for value of a bill of exchange against the acceptor, in which the plaintiff sought to make the defendant liable for the full apparent amount of a bill accepted by him, and subsequently increased in apparent amount by a forger on the ground that the bill, as accepted by the defendant, was drawn in a manner so negligent as to have facilitated the forgery subsequently committed. The case was tried before Mr. Justice Charles, without a jury (1894, 2 Q.B. 660), and the learned Judge had to deal, and dealt, with two principal propositions essential to the plaintiff's success. The first was that the law merchant imposed upon every one who accepted a bill of exchange with a view to its circulation the duty of taking reasonable precautions in order to prevent the possibility of its amount being fraudulently increased. That proposition the Judge accepted. The second proposition was that, on the facts, the acceptor of the bill had been guilty of such negligence as to bring him within the operation of the first proposition. That proposition was rejected by the Judge, who dismissed the suit. There was no suggested ground of negligence in the present case which was not present in *Scholfield v. Earl of Londesborough*. In the Court of Appeal (1895, 1 Q.B. 536), the Master of the Rolls and Lord Justice Rigby rejected both propositions, holding not only that no such duty as alleged lay upon the acceptor of a bill, but also that, assuming the existence of such a duty, it had not been violated. Lord Justice Lopes accepted both propositions as correct, and thought the plaintiff ought to succeed. The first proposition was expressly negatived by the House of Lords, but so far the decision did not directly affect the present case, for the contractual relation existing between a banker and his customer differentiated their case from that of the acceptor and the holder of a bill, and that was pointed out by several of their Lordships. It was recognised that there was or might be a duty on the part of the drawer of a cheque towards his banker which did not exist on the part of the acceptor of a bill towards the holder. It was recognised that "if the customer by any act of his has induced the banker to act upon the document by his act, or neglect of some act usual in the course of dealing between them, it is quite intelligible that he should not be permitted to set up his own act or neglect to the prejudice of the banker whom he has thus misled, or by neglect permitted to be misled" (*Per Lord*

Halsbury, L.C., in (1896) A.C., at p. 523). No attempt was made to define the extent of such obligation; it was unnecessary to do so in that case, nor did their Lordships propose now to attempt any abstract definition of such duty. Indeed, it would be impossible to do so, seeing that the extent of the duty might depend upon an agreed or established course of dealing between the parties. But the duty which, according to the ruling of the Chief Justice, subsisted between customer and banker was substantially the same as that contended for in *Scholfield v. Earl of Londesborough* as existing between the acceptor and the holder of a bill. And the House of Lords had before them the question whether the Court of Appeal was right in ruling that the facts found in that case (which included everything existing in the present) did not amount to a breach of the obligation, supposing that obligation to exist. Not one of the members of their Lordships' House appeared to have expressed the slightest disapproval of that ruling, and most of their Lordships distinctly approved of it. The Lord Chancellor expressed his concurrence in the opinion of Lord Justice Lindley in *Adelphi Bank v. Edwards* (not reported), "that it was wrong to contend that it is negligence to sign a negotiable instrument so that somebody else can tamper with it; and the wider proposition of Chief Justice Bovill, in a former case, *Société Générale v. Metropolitan Bank* (27 L.T. 849, at p. 856), that people are not supposed to commit forgery, and that the protection against forgery is not the vigilance of parties excluding the possibility of committing forgery, but the law of the land." Lord Watson approved the same rulings. Lord Macnaghten expressed the same opinion, and Lord Davey concurred in the judgment of Lord Watson. The principles there laid down appear to their Lordships to warrant the proposition that, whatever the duty of a customer towards his banker may be with reference to the drawing of cheques, the mere fact that the cheque is drawn with spaces such that a forger could utilise them for the purpose of forgery is not by itself any violation of that obligation. Their Lordships therefore agreed with the High Court of Australia in holding that there was no evidence proper to be left to the jury of negligence on the part of the respondents. They would humbly advise his Majesty that this appeal should be dismissed. The appellants would pay the respondents' costs of and incidental to the appeal as between solicitor and client.

(22 *Times Law Reports*, 746.)

Law Reports.

Company Law.

KING'S BENCH DIVISION.

August 3.

(Before WALTON, J.)

Cairney v. Back.

Company—Debenture—Floating Security—Garnishee Order Absolute—Receiver—Priority—Secretary of Company—Salary—Priority—“Clerk or Servant”—Preferential Payments in Bankruptcy Acts, 1888 (51 & 52 Vict. c. 62), s. 1, subsec. 1 (b); and 1897 (60 & 61 Vict. c. 19), secs. 2, 3.

This was the trial of an interpleader issue to determine whether the sum of £98 3s. 4d. (part of a sum of £166 5s. 3d. in Court) was the property of the plaintiff, Mr. Douglas Cairney, under and by virtue of a debenture granted by the Consolidated Mines, Lim., in his favour, or whether it was payable to the defendant, Mr. Alfred Back, in respect of certain garnishee proceedings instituted by him. A further point to be determined was whether the defendant was entitled to a preferential claim on the £98 3s. 4d. for salary as secretary of the Consolidated Mines, Lim. The following were the facts as found by the Judge:—The debenture held by the plaintiff was dated January 27 1906, and created a charge by way of floating security over all the property for the time being of the company. The defendant was appointed secretary of the Consolidated Mines, Lim., in April 1905, and he was secretary in January 1906, when the debenture was granted by the company to the plaintiff, and he, in fact, signed it as secretary. He was also registrar of, and gave most of his time to, another company called the Montana Company, Lim. On June 15 1906 the defendant obtained judgment against the Consolidated Mines, Lim., for £96 1s. 4d., the amount due to him as salary, which amount with certain costs made up the £98 3s. 4d. On the same day he obtained and served a garnishee order *nisi* upon the Commercial Bank of Scotland, with whom the Consolidated Mines, Lim., had an account, which was in credit. The garnishee order *nisi* having been obtained on June 15 1906 notice of it was given to the plaintiff on June 18, and the order was made absolute on June 25. On June 29 a receiver was appointed of the assets of the Consolidated Mines, Lim., on behalf of the plaintiff, the debenture-holder. The amount in the bank (£166 5s. 3d.) being claimed by both the plaintiff and defendant the bank brought the money into Court, and this issue was tried.

Mr. J. D. Crawford and Mr. S. O. Henn Collins, for the plaintiff, submitted that the cases of *In re Combined Weighing and Advertising Machine Co.* (6 *The Times* L.R. 7; 43 Ch.D. 99) and *Norton v. Yates* (1906, 1 K.B. 112) established this, that the garnishee order had no effect in transferring the debt garnished to the garnishor; the debt still remained due, and the garnishor could only take subject to the rights existing at the time the garnishee proceedings were instituted. In this case the debenture was anterior in date to the garnishee proceedings, and therefore the plaintiff's claim took priority over that of the defendant. As to the other point, that the defendant had priority in respect of at least four months' salary, counsel submitted that a secretary of a public company was not a "clerk or servant" within the Preferential Payments in Bankruptcy Acts, 1888, section 1, subsection 1 (b), and 1897, section 2. Moreover, for a person to come within those Acts he must be in the exclusive employment of the bankrupt or company, and as in this case it appeared from the evidence that practically the whole of the defendant's time was devoted to the Montana Company his claim could not be supported.

Mr. Maurice Hill, for the defendant, contended that the debenture did not become effective until the receiver was appointed, and as that was subsequent to the making of the garnishee order absolute the plaintiff's claim was postponed to that of the defendant—*Robson v. Smith* (11 *The Times* L.R. 351; (1895) 2 Ch. 118). On the other point he submitted that a secretary of a company was a "clerk or servant," and that it was not necessary that he should be in the exclusive employment of the particular bankrupt or company in whose bankruptcy or winding-up the claim was made.

Mr. Henn Collins replied.

JUDGMENT.

Mr. Justice Walton, after stating the facts set out above, said that the question which he had to decide was what were the rights of the parties under the circumstances mentioned. On behalf of the defendant it was said that he got a perfectly good security as against the debenture-holder by virtue, at any rate, of the order absolute on June 25. It was necessary to recall what the garnishee order absolute really was. It did not give any further effect to the charge upon the debt which was created by what was called the order *nisi*. That order was dated June 15, and it bound the debt in the hands of the bank; and although that order was called an order *nisi*, it was in fact the order which created the charge, and it created it at once. Then came the order absolute, as it was called, which did not deal with the charge, but was an order upon the garnishee to pay over the amount to the garnishor. Before, however, the money was paid over a receiver was appointed for the debenture-holders—namely, on June 29, and this issue was

directed on July 2. This kind of question had been on several occasions before the Court, the latest case being *Norton v. Yates*, decided by Mr. Justice Warrington. In that case Yates obtained judgment against a company on January 17 1905, and on the same day served a garnishee order *nisi*. The company had in 1903 issued a series of debentures, creating a charge by way of floating security, and on January 19 1905 a receiver was appointed for the debenture-holders. On January 20 notice of this appointment was served on Yates. Then there was an interpleader. In that case there was no order absolute and no payment. Mr. Justice Warrington held in those circumstances that the effect of the order *nisi* was not to transfer the debt to Yates the garnishor, and that the debt remained the property of the company, no doubt subject to the charge upon it, until, on January 19, the receiver who was then appointed became entitled to all the property of the company, including the debt, which was the subject of the order *nisi*, because, as Mr. Justice Warrington held, there being nothing but the debt, the charge created by the order *nisi* on January 17 was subject to the prior charge created by the debentures. The difference between the case of *Norton v. Yates* and the one before him consisted in this, that in the former there was no order absolute. Did that make any difference? In *Norton v. Yates* Mr. Justice Warrington followed the decision of the Court of Appeal in *In re Combined Weighing and Advertising Machine Company*, where it was held that a garnishee order did not operate to transfer the debt to the garnishor who obtained the order. In that case the order had been made absolute. Therefore, applying that case, which Mr. Justice Warrington followed, it was plain that it would have made no difference in *Norton v. Yates*, if the order there had been made absolute before the receiver was appointed. On the other hand, reliance was placed by the defendant on the case of *Robson v. Smith*, decided by Lord Justice (then Mr. Justice) Romer. In that case a garnishee order was made absolute against the defendant Smith, on October 4 1893, and Smith was ordered to pay the debt to the garnishor. On October 10 notice was given to the defendant Smith by the plaintiff of his debenture—the debenture being, as in this case, prior in date to the garnishee proceedings. Notwithstanding that notice Smith obeyed the order of October 4, and paid the money to the garnishor. Then the plaintiff, who was the holder for value of the debenture, brought his action against Smith, claiming to have the amount which Smith had paid, paid over again to him (the plaintiff), because, as the plaintiff contended, Smith had no right to pay the garnishor after notice of the debenture. Mr. Justice Romer held that Smith could not be called upon to pay the money over again. In that case no receiver had been appointed, but he did not think that made any difference. In this case the defendant said that it could

make no difference that the money had not been paid, if the order for its payment had been made, and that if the Commercial Bank of Scotland had paid him, they could not have been called upon to pay the amount over again. He (the learned Judge) did not know that *Robson v. Smith* decided the second proposition; it merely decided that a garnishee who has paid under an order absolute could not be made to pay over again, although after the order absolute he received notice of a prior debenture given by the company, the judgment debtors. In his opinion, *Robson v. Smith* had no application. The money had not been paid in this case, and the question was, who was equitably entitled to it? It was contended that the effect of the garnishee order absolute was very much the same as if execution had been levied and goods seized by the sheriff. Even if the order absolute could be looked upon in that way, that would not assist the defendant, because in the case of *Davey v. Williamson* (1898, 2 Q.B. 194) it was held by a Divisional Court, consisting of Lord Russell of Killowen and Mr. Justice Mathew, that even as against execution creditors the title of the debenture-holder prevailed. There, there was a debenture-holder on the one side and an execution creditor on the other; the debenture had not crystallised, as it was called—that is, the time for the payment of the amount secured by it had not arrived; yet, the rights of the debenture-holder prevailed. Therefore, it seemed to him that in this case the rights of the plaintiff under his debenture must prevail over the claim of the defendant. Another question had been discussed as to whether in any event the defendant was not entitled to be paid something in respect of his salary under the provisions of the Preferential Payments in Bankruptcy Act, 1888, and the Preferential Payments in Bankruptcy Amendment Act, 1897, which gave priority to “all wages or salary of any clerk or servant in respect of services rendered to the bankrupt or the company during four months before the date of the receiving order, or, as the case may be, the commencement of the winding-up”—in this case four months before the appointment of the receiver, under section 3 of the Act of 1897—“not exceeding £50.” In considering the defendant’s claim under that provision he had to see what the defendant’s duties were, and what services he rendered to the company. What these were the defendant himself described in cross-examination—his evidence having been taken on commission—when he said this:—“My duties were the ordinary duties of a secretary, to attend directors’ meetings in London and Glasgow, attend to correspondence and callers, and keep the Minute Book.” If the evidence had stopped there, and if it was the fact that the defendant did discharge those duties, he (the learned Judge) would have held that the defendant was a “clerk or servant.” But the defendant in his evidence went on to state:—“I had no particular hours

"of attendance, but was generally at the office from 12 to 2, and on any occasion when wanted. I had a clerk whom I paid; his hours of attendance were 10 to 5. I am registrar to another company—the Montana Company, Lim. My hours of attendance there are 10 to 4." So that the principal clerical duties discharged by or on behalf of the defendant to the Consolidated Mines, Lim., were discharged by a clerk in his service, the defendant's duties as registrar of the other company requiring his attendance there from 10 to 4. It came to this—that in the middle of the day he called at the office of the Consolidated Mines, Lim., to see what was going on; he attended meetings of directors, and he also attended when he was sent for. The general work of the Consolidated Mines, Lim., which would have fallen within his department was really done by a clerk whom the defendant paid. In his view the salary or wages which were given a priority by the Preferential Payments in Bankruptcy Acts were salary or wages due in respect of the personal services rendered by the "clerk or servant." In this case what the defendant did was not exactly serving the company, but providing services for the company and attending occasionally when required. He felt some sympathy with the defendant, but under both heads his claim failed. There would be judgment for the plaintiff.

(22 Times Law Reports, 776.)

Miscellaneous.

COURT OF APPEAL.

August 2.

(Before VAUGHAN WILLIAMS, ROMER, and
COZENS-HARDY, L.JJ.)

The Swanley Coal Company v. Denton.

Bill of Sale—Form in Schedule—Deviation from—Personal Chattels—Title Deeds of Leasehold Property—Bills of Sale Act, 1882 (45 & 46 Vict. c. 43), s. 9; Form in Schedule.

This was an appeal against a decision of the Divisional Court (Lord Alverstone, Mr. Justice Kennedy, and Mr. Justice Ridley) reversing a decision of the County Court Judge at Dartford. The case involved a question of some importance as to whether a bill of sale was rendered void under section 9 of the Bills of Sale Act (1878) Amendment Act, 1882 (45 & 46 Vict., c. 43), on the ground of non-conformity with the form prescribed by the Act by reason of the inclusion among the chattels thereby assigned of

certain title deeds relating to leasehold property of the assignor. The plaintiffs were creditors of the defendant, who was the proprietor of the Lion Hotel, Farningham, and had recovered judgment against him in the County Court and put in execution. A claim was made by Gillespie, the present appellant, under a bill of sale. The claim was disputed by the plaintiffs, and Gillespie then issued an interpleader summons in the action. The bill of sale in question was dated January 5 1904, and was duly registered on the following day. It was in favour of the Charing Cross Bank, from whom it was transferred to Gillespie in December 1904. By the bill of sale Denton as mortgagor, in consideration of £300, assigned to the mortgagee "all and singular the several chattels and things specifically described in the schedule hereto annexed now being in and about the dwelling-house and premises known as the Lion Hotel, Farningham, in the county of Kent, by way of security for the payment of the sum of £300 and interest thereon at the rate of £30 per centum per annum." The bill contained a proviso that the chattels and things thereby assigned should not be liable to seizure or to be taken possession of by the mortgagee for any cause other than those specified in section 7 of the Bills of Sale Act (1878) Amendment Act, 1882. And it was further provided "that if the said chattels and things hereby assigned shall be seized or taken possession of by the said mortgagee in consequence of the breach of any of the covenants herein contained the said mortgagee shall be at liberty to remove or sell the same or any part thereof by public auction at the expiration of five clear days from the day of such seizure or taking possession." The schedule referred to set out a long list of personal chattels and furniture, and then came this final item:—"Assignment dated January 24 1902 (between Walter Edward Lovegrove and Edward Richard Lovegrove of the first and second parts, and the grantor of this bill of sale, Edmund Basil Denton, of the third part), of lease (dated November 13 1891) of the said Lion Hotel, Farningham, Kent, aforesaid, and all the muniments of title referred to in the said assignment." The County Court Judge held that the title deeds were merely "personal chattels" and that the inclusion of them in the schedule to the bill of sale did not avoid the same. He accordingly gave judgment for the claimant. The plaintiffs, the execution creditors, appealed to the Divisional Court, who reversed the decision of the County Court Judge and entered judgment for the plaintiffs. The claimant appealed.

JUDGMENT.

The Court by a majority—Lord Justice Vaughan Williams and Lord Justice Romer—allowed the appeal, Lord Justice Cozens-Hardy dissenting.

Lord Justice Vaughan Williams said that the case was an unusual one and far from easy to decide. The question was whether a bill of sale given to secure a loan was a good bill of sale or not. If the security included a chattel interest in land, it was not arguable but that the bill of sale was void, but if, on the other hand, it included only personal chattels, it was a good bill of sale. The decision of the Divisional Court seemed to his Lordship, in substance, to be based on *Cochrane v. Entwistle* (25 Q.B.D. 116). In that case, however, there could be no doubt but that the bill of sale dealt with an interest in land of the nature of a chattel real, and it was not an authority in the present case at all, because in the present case the whole question was whether on the true construction of the bill of sale an interest in land as distinguished from an interest in chattels was given as part of the security. In construing this bill of sale it was necessary to look at the bill of sale as a whole to ascertain what was the intention of the grantor and the grantee as expressed in the document. It was argued that the inclusion of these title deeds in the schedule showed that the intention of the parties really was to give the grantee a charge on the land to which the deeds related. Now supposing the grantee had gone to a Court of Equity and asked to have this document dealt with, by declaration or otherwise, as creating an equitable charge on the land, there would have been a complete answer to the claim that, looking at the words of the document, it was manifest that the intention of both grantor and grantee was not to create a charge upon the land, but simply to create a security upon the subject-matter of the charge itself. One consequence of this bill of sale being treated in equity as a charge upon the land would have been that the grantee could have got an order for sale. But it was quite unnecessary for the grantee to get any order for sale because the document in question contained an express power for the grantee to sell that which was intended to be the subject-matter of the security after the expiration of five days from the date of seizure or taking possession. An argument had been based on the fact that the grantee had taken possession of the deed, and it was said that the taking possession was contemporaneous with the bill of sale. But there was no evidence of the circumstances in which this was done, and it could not affect the construction of the document. Of course, if it had been said that the document did not represent the real transaction between the parties, this fact would have been most material, but no such case had been made. Then it was said that the document ought not to be read in this way because a lease was so far really that the assignment of this lease and other muniments ought to be read as intended to give an interest in land. That might have been a strong argument, if it had been a true proposition of law that documents of title could not be

severed from the land which was the subject-matter of those documents, but the decision in *Barton v. Gainer* (3 H. and N. 387) was in his Lordship's opinion an authority to the contrary. Taking all these matters into consideration, his Lordship was of opinion that the decision of the Divisional Court could not be supported, and that the appeal must be allowed.

Lord Justice Romer delivered judgment, agreeing with Lord Justice Vaughan Williams.

Lord Justice Cozens-Hardy said that he agreed with the other members of the Court in thanking counsel for their argument, but that he was afraid that his agreement ceased there. He thought that the decision of the Divisional Court was right, and that the bill of sale was void because it included something which was not a personal chattel. His Lordship proposed to deal with the question upon the construction of the document itself. If it was a fact that the deeds were handed over contemporaneously with the execution of the bill of sale it was strong evidence that the transaction was not that which was disclosed by the bill of sale, but he put that on one side. In the first place this transaction was a loan, it was an assignment of the things described in the schedule by way of security for money lent, and there was a power to seize and take the property comprised in the schedule. Among the items in the schedule was this assignment of a lease and the muniments therein referred to. The schedule did not deal with pieces of parchment, of no value except as curiosities, but by the bill of sale the owner of the land gave a licence to the lender to get possession of these deeds as security for his loan. If a borrower gave an authority to a lender to go to his bankers and take his title deeds as security for a loan, his Lordship thought that it was clear that that would be regarded in equity as a good charge upon the land to which the deeds related. He thought it was straining credulity in the present case to suppose that these title deeds were to be regarded as mere parchment and wax, and it seemed to him an irresistible conclusion that they were dealt with for the purpose of giving a security on the land. After default made, in his Lordship's opinion, the lender could have obtained a legal mortgage on the land. In the Court below reliance had been placed on the case of *Cochrane v. Entwistle* (*supra*), but his Lordship agreed with Lord Justice Vaughan Williams that that decision was of no assistance in the present case. He would have thought that that case was too obvious for argument, and it was very different from the present one. In his opinion the decision of the Divisional Court in the present case was right.

Law Reports.

Bankruptcies and Insolvencies.

CHANCERY DIVISION.

August 29.

(Before SUTTON, J.)

Re H. R. Jones; Goatly v. Jones.

Bankruptcy—Attachment.

Motion for attachment. The defendant was the wife of Mr. Jones, a solicitor, who had been struck off the rolls. He had been the solicitor to the Wandsworth Board of Guardians, and had, in that capacity, conducted certain assessment appeals for them. His bills of costs had been duly taxed by the clerk of the peace, but the taxation was not a hostile one. In consequence of statements made by his clerk, an agitation with regard to these bills of costs had arisen, and in consequence a Board of Trade inquiry had been held, at which Jones had not appeared. As a result it appeared that these bills were fraudulent, and that he had been overpaid some £1,500. As the result of proceedings taken by the guardians in consequence of this discovery Jones had been made a bankrupt, and the trustee in bankruptcy was the present applicant. Jones and his wife, the respondent, and their family, had gone to France, but eventually he was extradited, tried for these frauds at the Old Bailey, and sentenced to a term of imprisonment. On the very day he was sentenced he had made a settlement of his property upon his wife and children, with himself and wife as trustees, and at the same time had executed a power of attorney enabling the latter to act as sole trustee. In that capacity she had possession of certain deeds of which the applicant, the trustee in the bankruptcy, desired to get possession, and an order had been obtained ordering Mrs. Jones to deliver them up. She had resisted the order in person, and it had afterwards been duly served on her, but she had not

obeyed it. The trustee in bankruptcy was endeavouring to get this deed set aside.

In reply to the Judge, Mrs. Jones said that the deeds were deposited in a bank in Bordeaux as security for sums of money which the banker was supplying for the support of her children. She could not undertake to authorise him to deliver them up as she had a co-trustee. This was a French lady, who had been appointed when her husband had resigned his trusteeship.

In answer to further questions she said that she was speaking of the settlement made by her husband on herself and children, which the trustee in bankruptcy was endeavouring to get set aside. The deed appointing the co-trustee was in France.

Sutton, J.: We must stop this conversation. There is an order of the Court which, if I can, I will have obeyed. I will adjourn the case for a week to enable you to obey.

(50 S.J. 715.)

September 5.

Adjourned motion for attachment. The case, as reported above, was adjourned to enable Mrs. Jones to produce certain documents which were required by the trustee in the bankruptcy of her husband. On the last occasion the defendant stated that the documents in question were in the hands of a banker in France, and that her co-trustee under a settlement of his property made by her husband at the time of his conviction for defrauding the guardians of Wandsworth, as their solicitor, also lived in France, and that it would be necessary to get the consent of this trustee before applying to the banker to deliver these documents up.

Mr. S. G. Lushington, on behalf of the applicant, the trustee in bankruptcy, said that Mrs. Jones had not delivered up the documents, nor was she present.

JUDGMENT.

His Lordship made the order, with costs, to lie in the office for one month.

Income Tax.

KING'S BENCH DIVISION.

August 10.

(Before WALTON, J.)

The Gramophone and Typewriter, Lim. v.**Stanley (Surveyor of Taxes).**

Revenue—Income-tax—Company Registered in England—Company Owning all the Shares in Foreign Company—Profits in Foreign Company—Income-tax Act, 1853 (16 & 17 Vict. c. 34), Schedule D.

This was a case stated under 43 & 44 Vict., c. 19, section 59, by the Commissioners of Income-tax for St. Paul, Covent Garden, raising a question as to the liability of the appellants to income-tax in respect of profits made by a German company in which the English company were shareholders. The following facts were set out in the case:—

At a meeting of the Commissioners on January 22 1903 the Gramophone and Typewriter, Lim., the appellants appealed against an assessment under schedule D of 16 & 17 Vict., c. 34, for the year ended April 5 1902, amounting to £79,348. The appellant company is an English company registered under the Companies Acts, 1862 to 1898, on December 10 1900, having a registered office at 21 City Road, in the City of London (formerly at 31 Maiden Lane, Covent Garden, in the City of Westminster). The memorandum of association of the appellant company states that the objects for which the company is established are (*inter alia*) to acquire and take over, as a going concern, the business and undertaking carried on at 31 Maiden Lane, London, W.C., and elsewhere, under the style or firm of "The Gramophone Company, Lim.," and all or any of the assets and liabilities of the proprietors of such business and undertaking. The Deutsche Grammophon Aktiengesellschaft, herein referred to as the German company, was registered on January 30 1900, and amongst those who united in forming it were the Gramophone Company, Lim., named in the memorandum of association of the appellant company. The German company was constituted on January 30 1900, under a deed of association, a joint-stock company with limited liability in conformity

with the German law, with its head office in Berlin. Article 213 of the German Code is as follows:—"Shareholders "cannot demand back their money, they have only a right "during the duration of the company to net profit, unless "such distribution is prohibited either by the law or by "the articles." The constitution, or administration as it is called, of the German company provides that:—"The "official bodies of the company are (a) the general meet- "ing of shareholders, (b) the board of supervision, (c) the "board of management." The Balance Sheet and distribu- tion of profits is to be prepared and made in accordance with the following articles:—"The business year com- "prises the period from September 1 to August 31 of the "following year. The first business year extends from the "day of the registration of the company to August 31 1900. "The board of management has to determine every year, "with the sanction of the board of supervision, how much "shall be written off annually from the book value of the "immovable and movable property. With regard to the "depreciation of the patents, at least one-third of the work- "ing profit remaining after deduction of all the business "expenses shall, before anything is written off the "immovable property, be devoted to writing off amounts "on patents or similar accounts. The Balance Sheet is to "be made up to August 31. The net profit remaining after "writing off all depreciation and setting aside all reserves "and carrying forward any sum to new account shall be "distributed as follows:—(1) In the first place the share- "holders shall receive a dividend up to 4 per cent. on the "paid-up share capital. (2) The board of supervision shall "then receive a percentage of 6 per cent. of the remainder. "(3) The rest shall be distributed as a further dividend." The German company in making up its Balance Sheet stated its total profits at £79,348 10s. 10d., but of that amount £15,000 was in accordance with the requirements of German law transferred to a depreciation fund. The appellant company now holds all the shares of the German company and the members of the board of management of the German company are also directors of the appellant company, and the members of the board of supervision of the German company are nominees of the appellant company. The directors of the appellant company, in accordance with the requirements contained in the articles of association of the same company, presented their report to their shareholders for the year ended June 30 1901. From that report a total credit balance appears of

£79,348 10s. 10d., which balance was appropriated in manner set forth in the report, and the whole of which balance was included in the assessment now appealed against. It was admitted on the hearing of the appeal that the whole of the sum of £79,348 10s. 10d. was liable to be taxed under schedule D except as to £15,000, part thereof, a sum stated in the report to have been transferred "to Patents Account, Germany, in accordance with German law." This sum of £15,000, transferred to Patents Account to meet the requirements of the German law, concerns the appellant company in respect of their interest in the German company. In the report of the directors of the appellant company the whole of the profits of the German company are brought in in one sum, but the board of management of the German company have set aside and transferred to their Patents Account the sum of £15,000, which amount is equivalent to the deterioration during the year of the value of the patents purchased by the German company, since these patents at the time of the constitution of the German company had three years to run. This sum of £15,000 is provided out of earnings of the German company. It was contended on behalf of the appellant company (1) that the sum of £15,000 transferred to the Patents Account, in conformity with the German law by the German company, is not chargeable with income-tax, that the sum of £15,000 was not profits of the appellant company, inasmuch as there was no resolution in general meeting of the German company for the distribution of this sum among the shareholders, and by German law this sum could not be so distributed; and that the sum of £15,000 was not profits or gains at all within the meaning of the Income-tax Acts, either of the German company or the appellant company. The Commissioners held (1) that the English company controlled the German company from England, and that the head and seat and directing power of the appellant company are at the appellants' registered office in London; (2) that the entire business of the German company was carried on by and was the business and property of the appellant company, and that the profits of the German company are the profits of the appellant company, and that this sum of £15,000 was profits of the appellant company within the meaning of the Income-tax Acts, and further that all the profits of the German company should be assessed without regard to the mode of application of such profits, and they confirmed the assessment.

JUDGMENT.

Mr. Justice Walton, in giving his reserved judgment, said that the effect of the German law was that the German company was in the English sense truly a corporate body practically similar for the purposes of the present case to an English limited liability company, and the position of the shareholders and their relation to liability were similar in principle to those of the shareholders of an English limited liability company. The property of the company was not the property of the shareholders, but the property of the company, and the shareholders' interest in the dividends was not an interest in the actual profits of the company, but an interest only in the dividends paid. The appellant company took over the assets of the Gramophone Company, and held all the shares in the German company, and the members of the board of supervision of the German company were nominees of the appellant company in this sense, that as the appellants held all the shares in the German company they had a controlling voice in the election of all the officers of the German company. The German company, in making up its Balance Sheet, stated its total profits at £79,348 10s. 10d., but of that amount £15,000 was, in accordance with the requirements of German law, transferred to a depreciation fund, and the question was whether the appellant company was chargeable to income-tax in respect of that £15,000. If one separated the appellants from the German company, the appellants had not received this sum of £15,000, as it had not been distributed as dividend. But it was said that, inasmuch as the appellant company owned all the shares in the German company, the business of the German company was the business of the appellant company, and therefore the £79,348 10s. 10d. profits of the German company were profits earned by the appellant company. He did not think that this very point was covered by authority, though in the case of *Kodak v. Clark* (1903, 1 K.B. 505) a similar question arose, and there were in the judgments in that case dicta which appeared to be sometimes in favour of one side and sometimes in favour of the other. It seemed to him that that case did not bind him on this question. It was important to remember that there were really two questions involved. The first was, whose was the business carried on by the German company? If it was not the business of the appellant company, this appeal must be allowed. But even if it was the business of the

appellant company, it would be necessary to consider whether that business was carried on—that is to say, controlled or managed—by the appellant company in England, in which case the appellant company would be chargeable. The important question was whether the business of the German company was the business of the appellant company. There was no doubt that a person (including a company) in England might be the owner of a commercial undertaking in a foreign country. Such person in England might carry on his foreign business by means of an agent abroad. The agent abroad might be a company and the owners of the business in England might be the shareholders in the foreign company. Then the business abroad was the business of the persons in England. But in such a case one had throughout this fact, that the business abroad was the business of the persons in this country. Was that so in this case? To his mind there was no evidence that the business of the German company was the business of the appellants except the fact that the appellants had become the beneficial owners of all the shares in the German company. That did not distinguish the German company, which was an existing person and a different person from the appellant company, and he thought that the effect of the judgment of the House of Lords in *Salomon v. Salomon & Co.* (1897, A.C. 22) was that the fact that the shares of one company (here the German company) all belonged to another person (here the appellant company) did not make the German company a mere *alias* or a trustee or an agent for the appellant company or for the shareholders in the appellant company. Therefore he did not think that there was any evidence that these profits were the profits of the appellant company. The appellant company had an interest in them, and that interest had been taxed, and there was no dispute as to that. This appeal must therefore be allowed with costs.

(22 *Times Law Reports*, 818.)

Receiverships.

CHANCERY DIVISION.

August 29.

(Before SUTTON, J.)

Bate v. Read.

Partnership—Receiver.

Motion for the appointment of a receiver in an action

for dissolution of partnership. The plaintiff and defendant were both solicitors at Leighton Buzzard. In the autumn of 1905 the plaintiff, being desirous of entering into partnership with another solicitor, got into communication with the defendant through a firm of agents in Chancery Lane, and eventually they entered into partnership. At the time, the plaintiff stated that he was rather rusty in his law, having been out of practice for some years, but the defendant said that that did not matter as he would soon pick it up. £400 was paid for a half share, and he was guaranteed £200 a year.

Sutton, J.: How is this urgent?

In his affidavit the plaintiff said that he and his wife had moved from Staffordshire to Leighton Buzzard in accordance with the deed of partnership. The defendant had promised to get him some introductions in the town, and was, at first, excessively pleasant to him, but only introduced him to a few stray persons in different bar parlours, and to one or two clients as they passed through the outer office. After some four months of partnership the defendant became very insulting to him, and had frequently stated that he did not believe in one partner knowing what the other did. The plaintiff's nerves were affected by the defendant's treatment of him, and he wrote to the defendant that the partnership must cease. The defendant had removed plaintiff's name from the door-plate, the office-windows, and the firm notepaper, and had told him that if he came to the office he would be turned out. It was contended for the defendant that it was the plaintiff's duty to keep the books, and that he had failed to do so. A receiver would do great harm to the business, of which probably the defendant would have to buy back the goodwill. With regard to the allegations in the plaintiff's affidavit, they were all strongly denied by the defendant in his affidavit. Eventually it was agreed that the defendant should within a month furnish an account of the business during the first eight months of the partnership, and that future takings should be paid into a joint account in the names of the solicitors of the parties. The plaintiff's name to be restored on the plate, the windows, and the notepaper.

Law Reports.

Company Law.

VACATION COURT.

October 1 and 10.

(Before BARGRAVE DEANE, J.)

**Goldfields of Matabeleland, Lim.; Lindley,
Petitioner.**

*Company—Winding-up—Reconstruction—"Just and Equitable"
Cause.*

Petition to wind up the above company. The learned Judge sat by special arrangement to hear the case on the 1st October, for which reason it was adjourned from Wednesday, the 26th September. The petition alleged that the company was incorporated on the 19th April 1895 with a nominal capital of £500,000, divided into 500,000 shares of £1 each, of which £404,789 was paid up or credited as paid up. Its objects were (*inter alia*) to acquire and to work mines in Africa and elsewhere, and to issue, acquire, and deal in shares, bonds, debentures, and securities of all kinds. At an extraordinary general meeting held on the 9th August 1906 it was resolved that it was desirable that the company should be wound up voluntarily, and eventually a resolution to that effect was carried. It was alleged that this was in furtherance of a scheme under which another company had been incorporated to buy all the assets of the old company by way of reconstruction of the old company, the shareholders to receive in exchange for each fully-paid £1 share a 10s. share in the new company, of which 7s. was credited as paid up. Under the memorandum of association John Oakley Maund and John Seear were the first managing directors, the former of whom died in 1902. The petition alleged that no other managing director was appointed in his place, and that Mr. Seear now had the sole control of the company, that he had been the promoter of the company, and had sold his business to it in May 1895 for £20,000, of which £15,000 was in cash and £5,000 in fully-paid shares of the company. The petition alleged that the other directors were nominees of Mr. Seear; and that the company was insolvent. The above resolution was opposed by the independent shareholders present at the meeting, but owing to the number of shares held by the directors and their nominees the resolution was carried. It was further alleged that there were a large number of other companies, some of which had their offices at the same place as that of the company, in all of which companies some director of the company, either Mr. Seear or another, was also a director, and had large financial interests therein; and it was alleged that between the company and these companies very large financial transactions had taken place, and that a large part of the company's capital had been employed in imprudent and unauthorised speculations in the shares

of these companies, and the petition set forth in detail the different transactions impugned. In consequence of these transactions there had been great fluctuations in the value of the company's shares, and it was alleged in the petition that Mr. Seear had taken advantage of such fluctuations to speculate in the shares. On the ground that questions of considerable difficulty would arise in the winding-up, requiring the assistance of the Court, and also in consideration of the circumstances set out above, the petition concluded that it was just and equitable that the company should be wound up.

Langdon, K.C., and Greenwood, for the petitioner: The facts set out in the petition showed that this was a case in which the directors ought to be subjected to cross-examination to answer the *prima facie* case which was made out against them. As to the legal aspect of the case, in *Re Haycraft Gold Reduction and Mining Company* (83 L.T. Rep. 166; (1900) 2 Ch. 230) it was said: "The existence of a voluntary winding-up is a strong reason why the Court should decline to interfere, but circumstances may justify interference." Again, in *Re General Phosphate Corporation* (1893, W.N. 142), it was held that under section 8 of the Winding-up Act, 1890, the shareholders had a statutory right to an investigation. And in *National Company for the Distribution of Electricity, Lim.* (87 L.T. Rep. 6; (1902) 2 Ch. 34), it was pointed out that it was not necessary actually to establish fraud, but the Court would order a winding-up where the circumstances justified an investigation, and where it was clear that the company was really under the control of one person. In the present instance a very substantial minority of the shareholders supported the petition. When the resolution to wind-up voluntarily was adopted, there was a very incomplete knowledge of what had really been done, or what it was proposed to do in the future. The company was clearly insolvent. But, if the assets were realised by some person who was independent of the present directors, sufficient funds would be found to meet all the liabilities, and it was undoubted that there would exist a surplus for distribution amongst the shareholders. The liquidator under the voluntary winding-up, Mr. Simpson, was not such an independent person, because he was the secretary of many of the companies which were under the control of Mr. Seear, and however capable and honourable he might be, and however anxious to do everything in his power to serve the shareholders, it was impossible to imagine that he could act independently in any case in which Mr. Seear was involved. In the notice convening the meeting the terms of the underwriting agreement were not stated, nor did it disclose the fact that the new company was to be registered in Rhodesia, and that, therefore, the shareholders would be deprived of the protection afforded by the stringent regulations of the Companies Act, 1900. One

of the articles of the new company gave the directors power not to disclose information. There was, at least, a case of grave suspicion made out, and the matters in issue could be properly tested by cross-examination only. If the directors had nothing to conceal, an investigation would do them good. Though no case of fraud had been suggested, many cases of suspicion had been shown, and this case was like the bundle of faggots, which could easily be broken one by one, but in a bundle were unbreakable.

Mulligan, K.C., and Hunt, for shareholders supporting the petition: This was not a proper reconstruction or reorganisation of a company. There had been no disclosure to the shareholders of the fact that Mr. Seear was to be an irremovable director. This was a special benefit to a director, and ought most certainly to have been disclosed. They referred to *Hooper v. Western Counties Telephones* (68 L.T. Rep. 78), *Re Gold Company* (40 L.T. Rep. 5; 11 Ch.D. 719), *Kaye v. Croydon Tramways Company* (78 L.T. Rep. 239; (1898) 1 Ch. 358), *Tiessen v. Henderson* (80 L.T. Rep. 483; (1899) 1 Ch. 861); Buckley, Company Law, p. 449.

Macnaghten, K.C., and Draper, for the voluntary liquidator and the creditors opposing the petition: The petitioner would have to show that by a winding-up a benefit would be conferred upon him or upon the shareholders. The petition was only supported by shareholders whose holdings were between £28,000 and £30,000, whilst it was opposed by shareholders to the extent of £166,000. It was asserted that £40,000 of these shares were under the control of Mr. Seear, but, even when these were deducted, there was an enormous preponderance in favour of the voluntary winding-up, and therefore opposed to the petitioner. But the main point of the case was this, that by an agreement dated the 1st August 1906 the company had sold the whole of its assets to the new company, and these assets would include all claims for misfeasance, if there were any, against Mr. Seear. They referred to *Re Parkgate Wagon Works Company* (44 L.T. Rep. 901; 17 Ch.D. 234) and *Wood v. Woodhouse, Lim.* (1896, W.N. 4). Even assuming, therefore, that there was any substance in the charges made, the benefit of any claim made would go, not to the petitioner or to the shareholders of the old company, but to the new company, and, consequently, it was impossible for the petitioner to show, as he must do in order to succeed, that the winding-up would confer a benefit upon him. In the case of *National Company for the Distribution of Electricity (ubi sup)*, to which attention had been called, although the Court was satisfied that some of the allegations made had been proved and things had been done which it considered improper, yet it said that it would be slow to exercise its discretionary jurisdiction unless it could be clearly shown that some benefit would accrue to the petitioner. The judgment in that case

had been followed in an unreported case of *Re Ibo Investment, Lim.* They submitted that there was not any case of real suspicion made out by the petitioner.

Bramwell Davis, K.C., and Wells, for shareholders opposing the petition: They pointed out that the fact that the shareholders were resident in all parts of the country rendered it impossible for them to be controlled by Mr. Seear.

Langdon, K.C., in reply: Assuming that there had been fraud on the part of the directors, the proposition of those who opposed the petition amounted to this—that Mr. Seear and the directors of the new company would have to bring an action for damages against Mr. Seear as a director of the old company. The situation was most ludicrous. He cited, further, *Re Gutta Percha Corporation* (83 L.T. Rep. 401; (1900) 2 Ch. 665).

Cur. adv. vult.

JUDGMENT.

Bargrave Deane, J.: Although I had practically made up my mind upon this case at the hearing, I thought it better to give my judgment later, and so have more time to consider the various points raised. This is a petition on the part of Mr. Lindley asking that the Goldfields of Matabeleland, Lim., shall be wound up by the Court. The company was incorporated on the 19th April 1895, with a capital of £500,000, divided into 500,000 shares of £1 each. Of these shares, 404,789 were fully paid up. By the memorandum of association of the company the registered office was to be situated in England. It is, then, most important to consider what were the objects of the company. By clause 3 (a) of the memorandum these are stated to be "To purchase, take on lease, or otherwise acquire 'freehold and other farms, properties, mines and mineral 'properties, and also grants, concessions, leases, claims, 'licences, or authorities of or over mines, land, mineral 'properties, water and other rights in Africa or elsewhere, 'either absolutely, optionally, or conditionally, and either 'solely or jointly with others," and by clause 3 (p) the company was empowered "To buy or otherwise acquire, 'issue, place, or sell, or otherwise deal in stocks, shares 'bonds, debentures, and securities of all kinds, and to give 'any guarantee or security in relation thereto, or other- 'wise." I have not myself had very great experience of these kinds of companies, but it is difficult for me to conceive of powers conferred in wider terms than by this memorandum. The company continued to carry on its work until August of the present year. Then the trouble began, and, as a result, one of the shareholders, the petitioner in this case, being dissatisfied with the conduct of the directors of the company, presented this winding-up petition. At the time of the formation of the company there were two managing directors, Mr. Maund and Mr. Seear. The former died some time ago, and Mr. Seear

became the sole managing director. There is one matter, first of all, to clear away. It is raised in the petition, but there was very little reference made to it in the argument by the petitioner's counsel. It is alleged that the directors distributed amongst themselves a larger amount out of the assets of the company than they were entitled to. I do not think that there is any substantial foundation for such an allegation. Another matter which seems to have had considerable effect upon Mr. Lindley and his judgment is the fact that he found that a large number of mining companies had offices in the same building as that in which the registered office of this company was situated. Although, as I have said, I do not know much about mining companies, I suppose that the majority of people have some knowledge of this, that these mining companies do congregate together, and in some cases actually share the same office. It is further stated that the directors of the company owned shares in and were actually directors of these other companies. I do not imagine that that is a state of things altogether unknown in the mining world. As I have said, the company carried on business up to August last, but I have only been supplied with annual reports for 1904 and 1905. On an examination of the report for 1904, I find that the auditors announced that there had been a considerable loss, and it is evident that the shares of the company had considerably depreciated in value. From the report of 1905 it appears that there was still a loss, though this loss was less heavy than in the preceding year. Therefore for two years the shareholders were informed that their property had seriously fallen in value. Of course, everyone is aware that during the last two years there has been a heavy fall in all South African securities. On the 1st August 1906 a notice was sent out convening a meeting for the 9th August. A resolution for the voluntary winding-up of the company was submitted to the meeting. A poll was demanded, but the resolution was carried by an overwhelming majority, and was confirmed at a subsequent meeting. Mr. Lindley was dissatisfied with the proceedings, and on the 29th August the present petition to wind up the company by the Court was presented. Now, the onus is laid upon the petitioner to satisfy me as to two things before he can expect me to make a winding-up order. In the first place, he must show me that it will be an advantage to him to have the company wound up by the Court; and, secondly, he must satisfy me that, although there is no direct allegation of fraud, at least there is grave suspicion of it under the circumstances. Now, what does he allege? In paragraph 29 it is stated: "In 1903 the company held more than 22,000 shares in the "Scottish Mashonaland Gold Mining Company, Lim., "which owned certain mineral deposits known as Banket "Reefs in Rhodesia. The said John Seear and the "Rhodesia Exploration and Development Company, Lim.,

"discovered that, contrary to the then prevailing general "opinion, these reefs were extremely valuable, and shortly "after such discovery, and without disclosing the same to "the company, the said John Seear and his co-directors "sold 18,500 of the company's shares to the Scottish "Mashonaland Gold Mining Company, Lim., at a gross "undervalue, to the Rhodesia Exploration and Develop- "ment Company, Lim., or to some other company or "person in a fiduciary relationship to the company. The "company has lost a very large sum by this transaction, "and proceedings ought to be taken in respect thereof. "About the same time a number of similar shares belong- "ing to another company of which the said John Seear had "recently been a director were sold under similar circum- "stances, and such other company has enforced payment "of £30,000 or thereabouts by way of damages or com- "pensation for such transaction." In reply to this, Mr. Seear has stated in his affidavit that no information had been received by him, or, as far as he knows, by any other person, that any engineer considered that these deposits existed until 1904, and that at the time of the sale of the shares of the Scottish Company he had no knowledge that these cla were of any particular value. He denies that the company's shares have been sold at a gross under- value. The average price received for the whole of the shares was 19s. 6½d. Since the sale they have been as low as 10s., and at the present moment they stand at 12s. 6d. At the time of the sale there was, in fact, no market in them. There is an allegation and also an answer—each good until contradicted. I can only say that I am of opinion that Mr. Lindley is certainly under a mis- apprehension as to matters referred to as having taken place in 1903, and that what did, in fact, take place hap- pened at a later period. I will not waste time by going through all the statements. They are all statements of fact, and the whole are denied by Mr. Seear on oath. There is one other matter alleged in the petition as amended. It is stated that a Mr. Simpson has been appointed as liquidator of the company in the voluntary winding-up, and that this gentleman is the secretary of the company, and also that he is, or has been, the secretary of, or a substantial shareholder in, some of the other companies controlled by Mr. Seear. Mr. Simpson himself has dealt with this allegation in his affidavit. He says that he is not, and never has been, a substantial shareholder in his own right in any company of which Mr. Seear is a director, and that his total holding of shares in any company in any way connected with the offices in which the offices of the Goldfields Company are located is less than 550, and that these are held in companies other than those in which Mr. Seear is a director. He goes on to say that he has never been concerned personally as a shareholder in the Exploration Company, although it is possible that some shares may have been registered in his name. I merely quote this particular matter as an instance that, although Mr. Lindley is most probably thoroughly honest in all the statements he has made, he is manifestly wrongly informed

as to certain of the things which he alleges. The petition does not raise any allegation of fraud, but there is a charge of grave suspicion. I can only say that the petitioner has altogether failed to convince me that there is any ground for such suspicion. How, then, am I to arrive at a conclusion as to whether a compulsory winding-up will be of benefit to the petitioner? It is said that a better opportunity will be afforded of realising the assets. What is the best test that I can apply? Surely it is the expressed opinion of the overwhelming majority of the shareholders and the creditors, and they are in favour of voluntary liquidation. It is very clear that they have never had any suspicion that the affairs of the company were in an unsatisfactory state, and that they have believed the directors have been doing their best for the benefit of all concerned. One knows that when a company is unsuccessful there are always a certain number of people who raise a cry of fraud, but in the present instance the vast majority are perfectly satisfied that no kind of fraud exists. Of course, the opinion of the shareholders is not binding upon me, but it is very valuable in assisting me to arrive at a decision. The petitioner has failed, as I have already said, to satisfy me that there is any ground for suspicion, and I am clearly of opinion that it is in the best interests of all concerned that the company should be wound up voluntarily. The petition, therefore, will be dismissed with costs.

(L.T. 546.)

VACATION COURT.

October 17.

(Before BARGRAVE DEANE, J.)

Re J. H. Selkirk, Lim. (Petition of Associated Newspapers, Lim.).

Company—Winding-up—Voluntary Winding-up Pending—Benefit to Creditors.

Petition by creditors to wind up the respondent company. It appeared from the petition and affidavits that the company was registered on the 30th September 1905, with a capital of £4,000 in shares of £1 each. Of these 3,300 had been issued, 2,294 being held by a Mr. Selkirk, who was the promoter and vendor and also the sole director and manager of the company. Mr. Selkirk's business, sold to the company and carried on by them, was that of advertising agents, and the debt of the petitioning creditors, Associated Newspapers, Lim., which amounted to £603, was the amount of a judgment with costs obtained by them against the respondent company in respect of advertisements inserted in their newspapers by them and not paid for. On the 24th of September last the respondents' registered office was closed, and a notice affixed thereto referred inquirers to a certain gentleman whose name and address was given, but who at the time was abroad. On the 27th of September a resolution was passed to wind up the company voluntarily, the above gentleman being made liquidator. On the 31st of July previous a mortgage of all its property, including the uncalled capital, was granted by the company to Mr. Selkirk to secure a sum of £5,188

alleged to be due from it to him. The company was insolvent. It was contended on behalf of the petitioners that the granting of the mortgage amounted to a fraudulent preference of Mr. Selkirk to other creditors, and was therefore void, and that the resolution to wind up voluntarily was not passed *bond fide*, but in order to defeat the company's creditors, and that as the control of the winding-up would in effect be in the hands of Mr. Selkirk, the creditors would be injured. This petition was supported by creditors for £2,000. The following passage from the judgment of Lindley, L.J., in *Re National Debenture and Assets Corporation* (1891, 2 Ch., at p. 518), was read: "It comes, therefore, now to the simple question of whether it is necessary and proper for the protection of the creditors to make a compulsory winding-up order instead of continuing the supervision order. . . . The company is a curious company, there is a great deal to be found out, and the powers of the Court, especially now since the modifications which have been made by last year's Act (the Companies (Winding-up) Act, 1890), to inquire into tricks or malpractices under a compulsory order, are very considerably larger than they are under a voluntary winding-up. Under the circumstances the creditors are entitled, in my opinion, to have a compulsory order." The voluntary winding-up was no bar to the order asked for if the general body of creditors desired it, although no one of them could prove that the voluntary winding-up prejudiced him (*Re Bishop & Sons, Lim.*, 1900, 2 Ch. 255), and here the great bulk of the creditors supported the petition. On behalf of the respondents it was contended that the petition was opposed by ordinary trade creditors to the amount of £800, and that consequently this was merely a question as between two sets of creditors as to the way in which the winding-up should be conducted. Nothing could be obtained under a compulsory winding-up that could not be obtained in the voluntary winding-up. It was admitted that the granting of the mortgage constituted a fraudulent preference, but any money improperly taken could be recovered in the pending winding-up. The case of *Re Bishop & Sons, Lim.*, was a different case from the present one, for there 90 per cent. of the creditors supported the petition, while a much smaller proportion did so in this case. Under section 145 of the Companies Act, 1862, a petitioner had to show that his rights would be prejudiced by a voluntary winding-up, but no evidence to that effect was given in this case.

JUDGMENT.

Bargrave Deane, J., said he would not call on the petitioner for a reply. The present case seemed to him one of those cases in which there should be a compulsory order. When he found that the company started with a capital of £4,000; that Mr. Selkirk, the promoter, held the majority of the shares which had been issued, and that the whole of the assets of the company, including the uncalled capital, had been granted to him, it seemed to him that it was a case of the greatest suspicion. There must be the usual order to wind up.

(50 S.J. 802.)

Law Reports.

Administrations.

COURT OF APPEAL.

October 29.

(Before VAUGHAN WILLIAMS, MOULTON, and
BUCKLEY, L.JJ.)

In re Samson; Robbins v. Alexander.

*Executor—Right of Preference—Specialty Creditors—Simple
Contract Creditors—Administration of Estates Act, 1869
(Hinde Palmer's Act) (32 & 33 Vict. c. 46), s. 1.*

Appeal from decision of Joyce, J.

The plaintiffs were specialty creditors of the testator under an indenture of mortgage. The testator's estate was insolvent. The defendants, who were the executors of the testator, had paid simple contract creditors of the testator in full before the commencement of the present administration action, and the assets remaining were insufficient to pay the amount due to the plaintiffs under their specialty debt.

The plaintiffs claimed that the defendants were not entitled to prefer simple contract debts to the plaintiffs' specialty debt, and relied on *In re Hankey; Cunliffe Smith v. Hankey* (68 L.J. Rep. Ch. 242; L.R. (1899) 1 Ch. 541).

Joyce, J., followed that case and refused to follow *In re Orsmond; Drury v. Orsmond* (58 L.T. 24), and made a declaration accordingly.

The defendants appealed.

JUDGMENT.

Their Lordships allowed the appeal, holding that the effect of Hinde Palmer's Act was to place specialty and simple contract creditors on an equal footing, and that the executors were entitled to prefer simple contract creditors and not bound to refund assets which they had paid away to such creditors before providing for the specialty debt.

Appeal allowed.

(L.J. 700.)

CHANCERY DIVISION.

November 6.

(Before KEKEWICH, J.)

*In re M'Clure's Trusts; Carr v. The Commercial
Union Assurance Company.*

*Tenant-for-Life and Remaindermen—Capital or Income—
Leasehold Houses—"Outgoings"—Expenses of Compelling
Tenants to Repair—Notice of Dilapidations.*

Adjourned summons.

The trustees of a marriage settlement of 1874 found it necessary to compel the tenants of the trust premises, who were under covenant to repair, to fulfil their obligations. With this object the trustees had the property surveyed

and served on the tenants notices of dilapidations. The tenants thereupon did the repairs. The trustees called upon the tenant-for-life to pay the expenses incurred by the trustees in compelling the tenants to repair, which amounted to about £200. This the tenant-for-life refused to do; and this summons was taken out to determine how these costs were to be paid as between the tenant-for-life and remaindermen.

JUDGMENT.

Kekewich, J., said the question was how the costs incurred in compelling the tenants to repair were to be borne as between the tenant-for-life and remaindermen. The tenant-for-life was under no obligation to repair, nor were the remaindermen; but these expenses must be borne by either or both. It was argued that they ought to be paid out of income, because the tenant-for-life was only to receive the net rents and profits after payment of outgoings, and that these expenses were "outgoings." If the trustees had done the repairs, that might be so. But they did not do the repairs, they only compelled the tenants to do them, and they now asked how the costs were to be borne. The principle was stated in *In re Hotchkys; Freke Calmady* (1886, 55 L.J. Rep. Ch. 546; L.R. 32 Ch. D. 408) that the burthen is not to be thrown wholly upon either, but that a fair proportion is to be borne by both. These costs were not "outgoings," but were expenses incurred for the benefit of the property. A fair proportion ought to be borne both by the tenant-for-life and remaindermen, and that could be effected by a mortgage of the property to raise the amount.

(L.J. 717.)

Bankruptcies and Insolvencies.

KING'S BENCH DIVISION.

October 29.

(Before BIGHAM, J.)

Re Lazarus; ex parte Trustee v. Kadish.

Section 48, Bankruptcy Act, 1883—Fraudulent Preference.

Motion by trustee of estate against L. Kadish, father-in-law of the bankrupt, for a declaration that four payments made by the bankrupt to him within three months of the bankruptcy constituted a fraudulent preference.

The material date—i.e., the presentation of the petition—was the 31st of August 1905, and the payments sought to be set aside were made in the preceding months of June, July, and August.

From the evidence adduced on behalf of the trustee, it appeared that in 1904 the debtor executed an ante nuptial settlement, under which he covenanted to pay £1,000 on demand. The trustees thereunder, of whom one was L. Kadish, issued a writ for that sum on the 4th August 1905.

and, as the debtor did not put in an appearance, judgment was signed against him. He did, however, enter an appearance to a writ issued by a trade creditor for £236 on the same day. The sheriff eventually sold the debtor's goods on behalf of the trustees of the marriage settlement, although the proceeds of sale had to be handed over through bankruptcy proceedings having been started by another creditor. Counsel contended that he had shown that the debtor, being insolvent at the time, had given sufficient evidence of his intention to prefer to bring the case within *Lawrie*; *ex parte Green* (5th Manson, 48).

The respondent, who was represented by counsel, then gave evidence and was cross-examined. He handed in a Cash Account to show that the payments in question were made in the ordinary way of business, and submitted that no dominant view to prefer had been established (*Ex parte Hill*; *re Bird*, 23 Ch. 695).

JUDGMENT.

Mr. Justice Bigham said that the trustee had to satisfy him that the case came within Section 48, and this he considered he had failed to do. There were strong grounds for suspicion, but something more than that was required. The motion was therefore dismissed with costs.

(Reported by W. H. Terry, Esq., Barrister-at-Law.)

Company Law.

CHANCERY DIVISION.

October 31.

(Before NEVILLE, J.)

Noakes v. Noakes & Co., Lim.

Debentures—Trust Deed—Power to Invest in Licensed Property—Public House—Refusal to Renew Licence—Compensation—Investment.

Adjourned summons.

The defendants were brewers carrying on business as a limited company in Bermondsey. The plaintiffs were the trustees of a trust deed on behalf of the debenture stock holders in the defendant company.

Part of the property comprised in the trust deed consisted of the "Swan" beer-house, in St. Giles', Camberwell. The licensing authority, in pursuance of the power conferred upon them by the Licensing Act, 1904 (4 Edw. VII. c. 23), had recently refused to renew the licence of these premises, and had paid the defendant company £2,813 by way of compensation for such refusal.

Clause 20 of the trust deed gave power to the trustees, application of the company, before the security became

enforceable, (7) to settle, adjust, refer to arbitration, compromise, and arrange all accounts, questions, claims, &c., pending with regard to the mortgaged premises; (9) generally to act in relation to the mortgaged premises in such manner as they might think expedient in the interest of the shareholders.

Clause 21 provided for the application of capital money arising under clause 20 in the purchase of other licensed premises, and for other purposes.

The present summons asked (1) whether the trustees were entitled to a specific charge on the compensation money of £2,813; and (2) whether, if they were so entitled, they would be justified, by virtue of sub-clauses (7) and (9) of clause 20 and of clause 21 of their trust deed, in applying the said sum in the purchase of new licensed premises.

It is said that the clauses in question are "common-form" clauses in debenture trust deeds of the kind now in question.

C. E. E. Jenkins, K.C., and C. Bathurst, for the summons, submitted (1) that it had already been decided that the compensation money in a case like this formed part of the property subject to the debenture trust deed (*The Law Guarantee and Trust Society, Lim. v. The Mitcham and Cheam Brewery Company, Lim.*, 1906, 75 L.J. Rep. Ch. 556; L.R. 1906, 2 Ch. 98); (2) that the trustees were entitled under the provisions of clause 20, sub-clauses (7) and (9), and clause 21 of the trust deed, to invest this money in the purchase of new licensed premises.

JUDGMENT.

Neville, J., said that he thought that the trustees were entitled, having reference to the clauses in question, to invest the compensation money in fresh licensed premises.

(L.J. 719.)

CHANCERY DIVISION.

October 26.

(Before WARRINGTON, J.)

Hinds v. Buenos Ayres Grand National Tramways Company, Lim.

Company—Payment out of Revenue or Capital—Interest on Debentures—Money Borrowed for Purpose of Construction—Ultra Vires.

This was a motion in an action brought by a shareholder in the defendant company for a declaration that the interest payable on certain conversion debenture stock issued by the company to provide funds for the conversion of their horse tramways into electric traction tramways should not be treated as part of the cost of such conversion, nor be charged to Capital Account, but be paid only

out of revenue; and asking for an injunction to restrain the company from paying the interest payable on certain other debenture stock issued by the company, unless to the extent that profits existed after computing them in accordance with the above declaration. The defendant company was formed under the Companies Acts in 1889, for the object (among others) of constructing, acquiring, and carrying on tramways. It had a capital of over a million pounds in £5 shares, and had issued, besides the conversion debenture stock, other debenture stock, the interest upon which was by the terms of the debentures payable exclusively out of the profits, if any, of the company for that year. In 1900 the company had entered into an agreement with another tramways company to take a lease of the system of this other company and pay them a certain proportion of their profits, and the two companies had agreed to convert their systems to electric traction tramways, and for each company to issue conversion bonds of a certain amount and for the payment of the interest on the bonds out of the proceeds during the period of conversion. The defendant company had accordingly issued conversion debenture stock upon the terms that the company should have power for the first two years after issue to pay the interest out of the proceeds of the stock. Part of the conversion of the lines having been effected, and the directors of the company having ascertained that the average cost of conversion was approximately £10,000 per mile, resolved to treat the interest on the stock as part of the cost of construction, and as being chargeable to Capital Account as from the date when such interest was due to the date when each mile of the track was completed. The plaintiff, considering that this course was *ultra vires*, and was prejudicial to the interests of the shareholders, brought this action, and now moved for an *interim* injunction.

JUDGMENT.

Warrington, J.: The question is whether the interest on the money borrowed by the company expressly for a purpose of conversion of their lines, which may be called a purpose of construction, is the same thing as money borrowed for construction. The directors propose to treat this interest as part of the cost of construction. Is there anything which compels them to charge it to Revenue Account? It is not contended that there is any statute regulating joint-stock companies which in terms compels them to do this. Nor is there any contractual obligation of this kind in any document regulating the constitution of the company. Is there then, independently of such statutes or regulations, any rule of law to this effect? In my opinion there is not. The principle regulating these questions is expressed by Lord Macnaghten in *Jamaica Railway Co. v. Attorney-General* (1893, A.C. 127, p. 136), and the same idea appears in the observations of Lindley,

L.J., in *Verner v. General and Commercial Investment Trust* 38 S.J. 384; 1894, 2 Ch. 239—that is to say, in the absence of any express prohibition or stipulation you must consider what commercial men acting fairly and honestly would do in the conduct of their business. The defendant company are creating a capital asset by means of which they hope to earn profits, and instead of simply employing a contractor to find the money and do the work, they do it themselves, and find the money by borrowing for the special purpose. Whatever is spent per mile—taking it at £10,000—is borrowed for that particular purpose. They are entitled, if they think fit, to treat as the cost of construction of this mile, not only the £10,000, but also the interest payable upon it. The contention of the plaintiff fails, and I refuse the motion.

With the consent of the parties the motion was treated as the trial of the action, and the Court declared that, being of opinion that the company were not bound to charge the interest on the conversion debenture stock during conversion against revenue, the action was dismissed.

(51 S.J. 13.)

Miscellaneous.

CHANCERY DIVISION.

November 2.

(Before PARKER, J.)

Reeve v. Marsh.

Restraint of Trade—Agreement not to "Affect the Trade or Business"—Setting up Rival Business.

This was the trial of an action brought by Mr. Edward Reeve, carrying on business as a coal and corn merchant, at Nottingham and elsewhere, as Edward Reeve & Co., against Mr. Frederick William Marsh, to restrain the breach of an agreement between them made in 1901. By this agreement the defendant was engaged as, and agreed to be, a traveller in the service of the plaintiff in his business at Nottingham. Clause 7 of the agreement was as follows:—"The said F. W. Marsh will not on the termination of this engagement, or within two years thereafter, "without the consent in writing of the said E. Reeve, either "in his own name or in the name or names of any other "person or persons, directly or indirectly, interfere with, "prejudice, or in any manner affect the trade or business "or reputation of the said E. Reeve, and will not solicit, "either personally or by or through any other person or "persons whomsoever, the trade or business of the "customers or connections of the said E. Reeve, or of

"wise induce them either to remove their custom from the said E. Reeve or to employ him the said F. W. Marsh or any other person or persons instead of the said E. Reeve." The defendant's employment came to an end at the end of 1905. In December 1905 he registered a limited company under the name of Fred W. Marsh, Lim., of which he was managing director, and it was alleged in the present action that he had broken his agreement by soliciting the plaintiff's customers and otherwise.

JUDGMENT.

Mr. Justice Parker, in giving judgment, said that the wording of the clause in respect of which breaches were alleged was somewhat unusual. The statement of claim in paragraph 5 alleged certain breaches in the following language:—"The defendant has, in breach of the provision of the said agreement, in fact, without the consent of the plaintiff, in his own name or in the name of the said limited company, directly interfered with, prejudiced, and affected the business of the plaintiff, and has solicited the business of the customers of the plaintiff and otherwise induced them to remove their custom from the plaintiff, and to employ him, the defendant, or the said limited company, instead of the plaintiff." In other words, there was an allegation of the breach of the whole clause. The plaintiff had given particulars "of when and where and by what acts the defendant" had "interfered with, prejudiced, and affected" the plaintiff's business, "the names and addresses of the customers solicited, with dates, and the means by which the defendant induced such customers to remove their custom from the plaintiff and employ the defendant, with dates, referred to in paragraph 5 of the claim," and he had stated the names and addresses of certain customers, and, giving certain dates, he had particularised that on certain dates, at the customers' addresses, there had been on the defendant's part, "informing customers of having left plaintiff's employ and commenced business on his own account, giving his address, and by his course of dealing soliciting the customers' orders." On the evidence it was quite clear that the plaintiff's case as to the defendant's soliciting and inducing by his course of conduct entirely failed. The defendant had done nothing actively to induce people to leave the plaintiff and come to him. That was admitted in reply. On the evidence it was absolutely clear that so far as that part of the action was concerned, it failed, and ought to be dismissed with costs. But there was another point to be dealt with. It was contended in effect that the mere fact of the defendant's setting up a similar business in Nottingham was a breach of the first part of the clause.

That was not soliciting, but it was contended that supplying coals to the plaintiff's former customers at their request, whether after solicitation or not, was a breach of the first part of the clause, because it might have injured the plaintiff in his business. Strictly speaking, that was not open on the pleadings and particulars as they stood, but assuming that the point was only a point of law and that any necessary amendment was allowed, the first part of the clause had to be carefully considered. Had the defendant, directly or indirectly, interfered with, prejudiced, or in any manner affected the trade or business or reputation of the plaintiff? Now the terms used were not only exceedingly wide, but also exceedingly vague. They did not go only to prejudicially affecting, but affecting in any way whatsoever, and, although his Lordship did not intend to decide the case on that ground, there might be good reasons for saying that the claim was too vague to be enforced. There appeared to be no reported case on the point except *Davies v. Davies* (36 Ch.D. 359); but that was actually decided on different grounds, and what was said by the Lords Justices, so far as it was applicable to the present case, was really more in the nature of *dicta* than decision. In the coal trade customers ordered their coals in different parts of the country, and if one dealer got a reputation and others did not adopt his methods and prices his business might compete with and prejudice theirs. So it would seem to be within the clause if the defendant set up a business anywhere which interfered with the plaintiff. He might set up business in London, and people might go to him instead of to the place in London or Nottingham where the plaintiff carried on business. It could not be said that that did not affect the plaintiff's business, and the clause seemed to be so wide as to forbid the carrying on of a rival business anywhere, although his Lordship did not decide the case on that ground. Another ground was that the claim could not be construed as meaning that the defendant was not to set up a rival business. The clause seemed to mean that, having set up a rival business, he was not himself actively to do anything by soliciting or puffing his own business to the disparagement of the business of the plaintiff. But supplying people who asked for a supply was not wrong merely because they had formerly been the plaintiff's customers. The clause seemed to point to active rather than indirect interference. Even if amendment were allowed, the point of law raised was not a good one. The plaintiff failed, and his action must be dismissed with costs.

(23 *Times Law Reports*, 24.)

Law Reports.

Accountancy and Auditing.

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

November 2.

(Before Lords MACNAGHTEN, DUNEDIN, ATKINSON, Sir ARTHUR WILSON, Sir ELZEAR TASCHEREAU, and Sir ALFRED WILLS.)

Prefontaine v. Grenier.

Canada—Quebec—Company—Director—Negligence—Preparation of Accounts by Cashier—Duty of Chairman to Detect Misstatements in Accounts.

This was an appeal from the judgment of the Court of King's Bench of Quebec, of February 27 1906, affirming a decision of the Superior Court of Montreal, which reversed a judgment of Mr. Justice Robidoux.

The argument for the appellant—the other side not being called on—was heard in July last, when judgment was reserved.

JUDGMENT.

Sir Arthur Wilson, in delivering their Lordships' judgment, said that the controversy between the parties arose out of the collapse of the Banque du Peuple of Montreal and elsewhere in July 1895. The bank was constituted in 1843 by the Canadian Act, 7 Vict., c. 66, by which certain specified persons and their successors were created a corporation, were to have the management of the affairs of the bank, and were to be individually, jointly, and severally liable for all the debts contracted by the corporation. With them also lay the appointment of officers, clerks, and servants. The members of the corporation had throughout the case also been called "directors." There was to be another class of persons interested in the bank ("commanditaires"), who were to be subject to no liability beyond the amount of the stock for which they subscribed. The profits were divisible among the shareholders of both classes alike according to the amounts of stock held by them. The third section made it clear that the management of the bank lay with the members of the corporation, or so many of them as might be chosen for the purpose by a majority of the body. The same body was to keep regular books of accounts to be balanced half-yearly. By sections 17 and 19, at the general annual meeting of the corporation on the first Monday of March, the partners *in commendam* were to elect three of their number as auditors, and it was the duty of the auditors "to look into "all the operations of the said corporation and to examine "the books of account, papers, and vouchers of the said "corporation," which books, papers, and vouchers, including the statement of assets and liabilities and inventory, were to be open to their examination during the last fifteen days of February and August, and to make their

report thereon at the next annual general meeting. By section 18, the annual general meeting was to be of all the shareholders, and at such meeting "a full and clear statement of the affairs of the said corporation shall be submitted containing on the one part the amount of capital "stock paid in, the amount of notes of the bank in circulation, the net profits in hand, the balances due to other "banks and institutions, and the cash deposited in the "bank, distinguishing deposits bearing interest from those "not bearing interest, and on the other part the amount "of current coins and gold and silver bullion in the "vaults of the bank, the value of buildings and other real "estate belonging to the bank, the balances due to the "bank from other banks and institutions, and the amount "of debts owing to the bank, including and particularising "the amounts so owing on bills of exchange, discounted "notes, mortgages, and hypothecs, and other securities; "thus exhibiting on the one hand the liabilities of or debts "due by the bank, and on the other hand the assets and "resources thereof; and the said statement shall also "exhibit the rate and amount of the then last dividend "declared, the amount of profits reserved at the time of "declaring such dividend, and the amount of the debts to "the bank overdue and not paid, with an estimate of the "loss which may probably be incurred from the non-"payment of such debts." Section 22 empowered the majority of the corporation, if of opinion that it should be necessary to require one or more of its members to devote an exceptional amount of time to the affairs of the bank, to compensate such member or members by salary or otherwise. The respondent Grenier was president of the bank. At first he received a remuneration of \$1,000, as had his predecessor in office. In March 1887 his remuneration was raised to \$2,000. In May 1889 Grenier was re-elected president under a resolution in these words:—"M. "Grenier à la condition toute spéciale qu'aucun document "ou transaction faite au nom de la banque soient bien et "dûment par le caissier soumis à lui-même pour être "approuvés, signés ou endossés et ce dans le but de "partager en toutes occasions avec le caissier la responsabilité des engagements de la banque lesquels devront "aussi être soumis à la direction pour approbation." Prior to May 1894, Préfontaine, the appellant, was one of the commanditaires of the bank, with a holding of 31 shares. He then purchased a further number of 69 shares, and at about the same time he was elected by the directors or members of the corporation to be one of their number. By accepting that position he, of course, became subject to the special liabilities imposed by the Act upon the members of the body which he thus joined. From that time down to shortly before July 16 1895, when the doors were closed, the bank went on in apparent prosperity. As to the cause of the collapse that then occurred there

no doubt. It was due entirely to the fact that the cashier of the bank, without the sanction or knowledge of the respondent Grenier, or his co-directors, and in disobedience to their general instructions, had allowed large overdrafts, partly in current account and partly in other forms, to certain favoured customers, overdrafts which amounted in all to a large sum. Préfontaine instituted the present suit against Grenier in November 1900. He complained (1) that Grenier as president had made false representations both to the shareholders generally and to Préfontaine himself by which the latter had been induced to purchase his additional shares and to become a director; and (2) that he had been guilty of negligence in the conduct of the affairs of the bank and failed in his duty as president and so brought about the failure. He claimed as damages \$8,625, which he had paid for his shares, and \$45,914.89, which he ultimately had to pay as the result of the liquidation in respect of his liability as a director or member of the corporation. The case was tried before Mr. Justice Robidoux, who decided in favour of the plaintiff, so far as concerned the amount which he had been obliged to pay in respect of his liability as director or member. The Superior Court agreed with Mr. Justice Robidoux on the merits of the case, but by a majority decided that the action was barred by prescription. The Court of King's Bench, on further appeal, held that the plaintiff's case failed, irrespective of the question of prescription. Against that judgment the present appeal had been brought. The case of the appellant, so far as it rested upon misrepresentation, was based, in the argument before their Lordships, upon the report issued for 1893, dated March 1 1894, with the statements of accounts annexed to that report, read in connection with the like reports and statements relating to previous years. The alleged misrepresentations thus relied upon were three in number. First, the report said, "All our agencies have been thoroughly inspected during the year." In fact, the agencies outside Montreal had been inspected, but certain branches, or agencies, within that city had not been so inspected. It was unnecessary to inquire whether, on the proper construction of the report, the words in question referred to all the agencies or branches, including those within the city of Montreal, or only to those outside the city, because it was no part of the plaintiff's case that he was misled into purchasing shares or becoming a director by any such misrepresentation as that now contended for. In his declaration and his particulars the plaintiff defined his case on all points, and he nowhere said that he was induced to act by any such misrepresentation as that. He did put forward want of inspection of the head office as an instance of negligence or default on the part of the defendant, but that was a totally different matter and led to a different part of the case. It was next said

that the report and the account annexed to it untruefully represented that the bank possessed a reserve fund of \$600,000. But in the opinion of their Lordships the account, which was the more important document of the two and the basis of the report, made no such representation. That account was in the nature of a Balance Sheet. It entered the amount of the reserve fund as an item under the head of liabilities, as it was proper to do, but when one turned to the other side of the account under the heading "assets," there was nothing to suggest that the bank held any investment of corresponding amount which could be thought to represent the reserve fund. There was nothing which could properly be understood as conveying that that fund was more than an estimated amount or was anything separately held or separately invested. Then it was said that there was a misrepresentation in another respect. The amounts of the overdrafts, improperly allowed by the cashier to certain customers, were included in the amounts which appeared in the account as assets, and there was no complaint that the aggregate on that side of the account was not correct. But the suggestion was that those sums ought to have been included in the item "Notes and bills overdue unsecured," whereas in fact they were included in "Loans and discounts current." It appeared to their Lordships that the sums were at least as correctly treated in the account in the manner in which they were treated as they would have been if entered in the manner in which it was said that they ought to have been. Their Lordships, therefore, agreed with the Court of King's Bench that the plaintiff's case based upon misrepresentation failed on the facts, and it was unnecessary to consider any of the questions of law which might otherwise have arisen. The second branch of the plaintiff's case was based on alleged negligence on the part of the defendant in the discharge of his functions as president of the bank. It had been already stated that the collapse of the bank was due to overdrafts, which the cashier had irregularly and improperly allowed to certain customers. The main ground upon which the defendant was charged with negligence was that he had not exercised such a control over the details of the bank's business as to enable him to detect and put a stop to the irregular practices of the cashier. Before examining the question of his liability it might be well to notice that the cashier was the principal executive officer of the bank under the directors. There was nothing to show that either the defendant or his brother directors had any reason to suspect or distrust that officer. The accounts periodically submitted to the directors were prepared by him, or under his directions. They were duly audited by the board of auditors appointed under section 19 of the Act by the body of commanditaires, such auditors being thus entirely independent of the directors. In those accounts the total assets and liabilities

ties of the bank were correctly stated according to the books, but the accounts were so framed as not to disclose the fact that the totals included unauthorised overdrafts. The contention on the part of the plaintiff was that it was the duty of the defendant to have exercised such control as to have detected the overdrafts, which were in fact concealed from him and his co-directors. The alleged duty of the defendant was based (1) upon the fact that he was president, and (2) that he received a salary as such. Reliance was further placed on the resolution of May 6 1889. In this country questions as to the nature and extent of the duty and responsibility of directors and others, in respect of the conduct of the affairs of companies, had been frequently brought under consideration. Attempts had been repeatedly made to render them personally liable on the ground that they had trusted the regularly authorised officers of the company; that they had failed to detect and been misled by misrepresentation or concealment by such officers, when there was no reason for doubting their fidelity. But such attempts had not been successful. It was sufficient to refer to the case of *Dovey v. Cory* (1901, A.C. 477), in which the subject was fully considered by the House of Lords. Their Lordships thought that in the absence of any legislation in force in Quebec inconsistent with the law as acted upon in England, and in the absence of any evidence of custom and course of business to the contrary, the Court of King's Bench was right in accepting the English rulings, because they were based, not upon any special rule of English law, nor upon any circumstances of a local character, but upon the broadest considerations of the nature of the position and the exigencies of business. The fact that the defendant was remunerated for his services as president did not seem to their Lordships to strengthen the case against him. Indeed, the modest scale of his remuneration was scarcely consistent with the idea that he, a man of considerable position, and with a business of his own, was ever expected to give his time and labour to the detailed control of the work of the bank. It was much more consistent with the idea that he was expected to do what he did—that was to say, to devote some two hours a day to the business of the bank, two hours largely taken up by official interviews. The resolution of May 6 1889 was very hard to follow, and no one had succeeded in construing it clearly, but it seemed to their Lordships certainly not to strengthen the case of the plaintiff. So far as anything could be collected from it, it seemed to show that the obligation of the defendant to share responsibility with the cashier was limited to the "engagements of the bank," whatever those words might mean; and, further, that the directors were also to be bound to approve each transaction falling within that class. The grounds, therefore, put forward by the plaintiff as supporting the general allegation of the defendant's

liability, appeared to their Lordships insufficient to do so. And, further, the Court of King's Bench was, in their Lordships' opinion, right in laying stress upon the fact that the accounts laid before the defendant and his co-directors, in which it was said that the defendant ought to have detected what was concealed, had been audited by a wholly independent body of auditors, and certified by them as correct, and there was nothing shown which should have led the defendant to doubt the sufficiency of the audit. A special charge of negligence was pressed against the defendant in the argument of the appeal, based upon the evidence of a M. Gagnon, who held the post of inspector under the bank. There was nothing in the evidence to show the terms of his appointment, and no formal definition of the extent of his duties. The defendant said in his evidence that Gagnon's duties were limited to the inspection of branches and agencies outside the city of Montreal. On one occasion Gagnon was specially employed to examine into a matter in the head office. He said he was dissatisfied with what he found, and that he pressed upon the defendant that he, Gagnon, should be empowered to make a completer inspection. He said that his suggestion was not very well received, that the defendant rejected the idea that the inspector should be put to supervise the work of the head official of the bank. It was contended that the omission to authorise the suggested inspection was an act of negligence on the part of the defendant, and that if the suggested inspection had been carried out the overdrafts which led to the fall of the bank would, or might have been, brought to light. Their Lordships were not prepared to say that there was negligence in omitting to sanction an inspection inconsistent with the ordinary method of conducting the affairs of the bank, nor had it been shown that there was any direct connection between the matters excepted to by Gagnon and the fatal overdrafts. Their Lordships agreed with the Court of King's Bench that the charge of negligence had not been established in fact. It was, therefore, unnecessary to consider (what might have been a difficult question of law) whether the obligation of the defendant, which, whatever its nature and extent, was primarily a contractual obligation, could be made the ground of an action by an individual member of the corporation, as distinguished from the bank in its entirety, and from the smaller body, the directors or members of the corporation. Their Lordships would humbly advise his Majesty that the appeal should be dismissed. The appellant would pay the costs.

Administrations.

CHANCERY DIVISION.

October 31.

(Before KEKEWICH, J.)

*In re Bates; Hodgson v. Bates.**Will—Conversion—Hazardous Securities—Tenant-for-Life and Remainderman—Power to Trustees to Retain Securities.*

This was an originating summons which raised a question of law whether the present case fell within the well-known rule laid down in *Howe v. Earl of Dartmouth* (7 Ves. 137). The testator by his will devised his real estate to his wife during her life, without impeachment of waste, and after her death to such uses in favour of any descendant, then living or to be born during her life-time, of his grandfather as his wife should by will appoint, such descendant to take the same real estate in tail male, and in default of such appointment to the use of the testator's brother for life and after his death to his eldest son in tail male. And the testator bequeathed all his personal estate upon such trusts as would correspond as nearly as the rules of law and equity would permit with the uses declared with respect to his real estate. By a codicil the testator declared that his trustees might retain any investments for such period as to them might seem proper. The testator at the time of his death was possessed of fully paid-up shares in the Bedlington Coal Company, which is a prosperous concern, having a reserve fund of over £56,000; and the question now arose whether the tenant-for-life was entitled to receive the whole of the dividends on such shares or whether such dividends ought to be apportioned as between capital and income, or, in other words, whether a mere power to retain investments standing alone took the case out of the rule in *Howe v. Earl of Dartmouth*. The cases cited, besides those referred to in the judgment, were *In re Thomas* (1891, 3 Ch. 482), *In re Pitcairn* (1896, 2 Ch. 199), and *In re Chaytor* (1905, 1 Ch. 233).

JUDGMENT.

Mr. Justice Kekewich, in delivering judgment, said it was, no doubt, true, as had been suggested, that this was a new point now raised for the first time, at least, in this sense, that the question whether a mere power to retain standing alone took the case out of the rule had not been decided. In all the other cases cited there was something more than a mere power to retain. In the present case the will contained a trust, by reference, of personalty to the testator's wife for life, and after her death by the persons therein mentioned, and if there had been no codicil the rule in *Howe v. Earl of Dartmouth* (7 Ves. 137) would have applied to the present case. That rule was very clearly stated by Lord Justice Baggallay in *Macdonald v. Irvine* (Ch.D., at p. 112), where he says that the rule amounts

to this—"that where there is a residuary bequest of "personal estate to be enjoyed by several persons in succession, a Court of equity, in the absence of any evidence "of a contrary intention, will assume that it was the intention of the testator that his legatees should enjoy the "same thing in succession, and, as the only means of "giving effect to such intention, will direct the conversion "into permanent investments of a recognised character of "all such parts of the estate as are of a wasting or reversionary character, and also all such other existing investments as are not of the recognised character and are "consequently deemed to be more or less hazardous." The question, therefore, was one of intention, the rule being founded upon what was presumed to be the intention of the testator. The testator must be presumed to have intended equality, and that the property bequeathed should be enjoyed in the same way as regards value by those succeeding to it after the death of the tenant-for-life, and this could only be effected by conversion. That intention was presumed by law, and, of course, must give way to any express intention on the part of the testator. Once you find an express intention by the testator that the securities are to be retained, then effect must be given to it, notwithstanding the rule in *Howe v. Earl of Dartmouth*. It was necessary, therefore, to examine the will and codicil, and in the latter there was the following clause:—"My trustees may retain any of my investments belonging "to me at my death for such period as to them may seem "proper without being responsible for any loss occasioned "thereby." We may for the present purpose leave out the last words of the clause, which express the motive of the testator, but do not really affect the direction itself. The rule in *Howe v. Earl of Dartmouth* says that the conversion must take place as soon as possible, that the trustees must realise all securities of a wasting and hazardous character, and pay the income of the permanent investments of a recognised character to the tenant-for-life. The discretion to retain is inconsistent with this rule. The trustees may retain so long as they think fit. If they retain they cannot convert. The testator, therefore, has in effect said that they are not bound to convert. So that in the present case the intention of the testator is different from the intention presumed by law. What is the effect of the power to retain? I am aware that in what I am about to decide I may be differing from other Judges, but I feel great difficulty in differing from Mr. Justice North in *In re Sheldon* (39 Ch.D., at p. 53), where he says:—"I do not see how I can direct the retainer of "the existing investments and at the same time hold that "the tenants-for-life are not entitled to receive the whole "of the income produced by those investments. There "being no wasting securities, I can see nothing to prevent "the tenants-for-life from receiving the whole income of

"the securities which are retained." It seems to me that the discretion to retain really has the effect of adding the shares in question to the list of authorised securities, and the income of authorised securities must be paid to the tenant-for-life. With regard to wasting securities, it was very difficult to define what they were. They might be described as securities which decreased in value from day to day, and this was their intrinsic character. Familiar instances were leasehold houses and long annuities. There was a strong presumption that a testator did not mean the tenant-for-life to swallow the fruit-bearing tree. The rule applied to hazardous as well as wasting securities. Why should that operate on the income? Once arrive at the fact that the testator intended his trustees to have power to retain and there seemed no reason to hesitate in giving to the tenant-for-life what the testator himself had enjoyed. Why should it be presumed that the tenant-for-life was not to have the income? But other Judges had thought differently, as in *Porter v. Baddeley* (5 Ch.D. 542). That view, however, was taken by Mr. Justice North in *In re Sheldon* (39 Ch.D., at p. 52), where he says:—"In *Porter v. Baddeley* the unauthorised securities were of a 'wasting nature. The same principle does not seem to me to apply to securities which are of a permanent nature, though they may be hazardous.' If it were necessary in the present case to decide whether the trustees had power to retain wasting securities, I should be inclined to say that they might, but it would be going in the face of some of the cases on the point, and I should have to leave it to the Court of Appeal to review those decisions. I have not, however, to decide that point here. In the present case the securities are hazardous, but not wasting. It is true that they are shares in a coal company, but that company is a great deal more than a mere company formed to work a particular colliery. Without going into the other cases cited, I hold that the trustees, having power to retain, are authorised by the testator to hold these shares, and that the tenant-for-life is entitled to the income produced thereby.

(23 *Times Law Reports*, 15.)

CHANCERY DIVISION.

November 2 and 6.

(Before NEVILLE, J.)

In re Mary King; Mellor v. The South Australian Land Mortgage and Agency Company, Lim.

Administration—Contingent Liabilities—Retention of Assets—Executor—Distribution—Practice—Parties—Rules of Supreme Court, 1883, Order LV., rule 3 (e) and (g); rule 5A.

The testatrix, Mary King, by her will dated March 19 1900, after giving certain specific legacies, devised and bequeathed all her residuary real and personal estate to her

sisters and their children. The testatrix died on May 5 1905, and her will and a codicil thereto were duly proved by the plaintiffs as her executors. Part of the residue of the testatrix's estate consisted of 524 shares of £10 each in the defendant company, of which only £4 had been paid on each share. No further call had been made at the date of this application.

The plaintiffs took out this summons under Order LV., rule 3 (e) and (g), asking for a declaration that they were, notwithstanding the liability of the estate of the testatrix in respect of the uncalled capital on these shares, entitled to distribute the estate among the persons beneficially entitled upon the persons so entitled severally undertaking to refund the whole or such part (if any) of the estate paid or transferred to them as the Court might direct, for the purpose of answering any debt which the defendant company might thereafter establish in respect of the said liability.

The company and all the residuary legatees were made parties to the summons.

Neville, J., said that the plaintiffs defended their action in bringing the company before the Court on the ground that, the company being persons whose rights or interests were sought to be affected, they were properly served under Order LV., rule 5A (a). No doubt the company were in a sense persons whose rights were sought to be affected. The jurisdiction of the Court had not, however, been enlarged by the rules, which were only intended to provide a simpler form of procedure, and no case could be cited deciding that persons with a possible future claim against the estate were proper parties. On the contrary, *King v. Malcott* (1852, 9 Ha. 692) showed that such a person had no rights which were enforceable in an administration action; and it followed, in his opinion, that such a person could not be made a party. The company were entitled to be dismissed from the summons, the plaintiffs paying their costs.

The summons was then proceeded with.

JUDGMENT.

Neville, J., said that authorities showed that the Court had gradually adopted the practice of making an order allowing distribution of an estate in spite of the existence of contingent liabilities. He did not regard the practice as very satisfactory, for he could not help seeing that the rights of third parties were affected in their absence. The order made by the Court gave a complete indemnity to the executors, and he could not understand why the beneficiaries should be required to give an indemnity to the executors. As the beneficiaries had in this case offered an indemnity, he would not prevent the executors availing themselves of the offer, as they desired to do so.

It seemed doubtful whether the order ought to be made on a summons not asking for administration, as with-

administration the Court would not have cognisance that all the debts had been paid. The summons must be amended by asking for administration so far as might be necessary. He would direct an inquiry into the debts and legacies and adjourn the summons to chambers, with liberty to apply.

(L.J. 735.)

Bankruptcies and Insolvencies.

DIVISIONAL COURT.

November 5.

(Before BIGHAM and A. T. LAWRENCE, JJ.)

In re A Debtor; ex parte Petitioning Creditor.

Mistake in Bankruptcy Notice.

An appeal from the refusal of a County Court Registrar to recognise the validity of a bankruptcy notice.

From the opening it appeared that a sum of 40s. had been included in the debt, although that sum had been taken out of Court by the petitioners. The appellants, basing their arguments on the case of *Re Bates; ex parte Lindsey* (Mor. vol. 4., p. 192), maintained that the notice should not have been invalidated, the defect being merely a formal one.

In the above mentioned case of *Bates* a sum of £20 had been wrongly included in the notice, but notwithstanding this defect the Divisional Court rectified the proceedings. This decision was, however, criticised by the Court as going very far indeed in the case of *Miller; ex parte Miller* (10 Mor. 183), where it was held that a mistake of £45 was a substantial error which vitiated the bankruptcy notice.

In support of the argument the case of *Low; ex parte Gibson* (II. Man. p. 169) was referred to as a decision of the Court of Appeal. In that case the bankruptcy notice was held to have been valid, as the debtor had not been misled, the mistake having been in stating that judgment had been given against six defendants, whereas it had been recovered against four of them only.

JUDGMENT.

Mr. Justice Bigham, in dismissing the appeal, said that an act of bankruptcy could never arise out of the bankruptcy notice before him. The correctness of these documents was of grave consequence to others besides the debtor, and they must come strictly within the statute. It was true that notices had been held to be wrong, and yet to come within the statute, so that the error was treated as a formal defect under section 143. In this case, however, the solicitors had clearly made a mistake which he could not consider as a formal defect.

(Reported by W. H. Terry, Esq., Barrister-at-Law.)

KING'S BENCH DIVISION.

November 4 and 5.

(Before BIGHAM and A. T. LAWRENCE, JJ.)

Re Rushforth; ex parte Holmes.

Bankruptcy—Mutual Dealings—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 38.

Appeal from a decision of the County Court Judge at Bradford, whereby he ordered the appellants to pay to the trustee in bankruptcy the sum of £400, being the agreed amount of the valuation of the bankrupt's stock-in-trade as a licensed victualler, less £42 10s. admitted to be due to the appellants in respect of rent. On the 24th of October 1904 the appellants, Messrs. J. R. Holmes & Co., let to the bankrupt a public-house under a lease whereby the tenant was obliged to buy his beer, &c., from the landlords. The lease contained a clause whereby all rent and arrears of rent, all sums due on account of beer supplied, and all invoices whatsoever due to the landlords upon any determination of the tenancy were to be deducted from the valuation payable by the incoming tenant to the bankrupt. In February 1906 there was due to the landlords £502 12s. 11d. on account of rent, beer supplied, and a loan of £254 which the landlords had made to the tenant on his entering upon the tenancy to assist him to pay his valuation. On the 14th of February 1906 the bankrupt had agreed for a transfer of the house to a new tenant named Bailey, and they had appointed two valuers to value the stock-in-trade, fittings, &c. On the 20th of February the bankrupt committed an act of bankruptcy by assigning his estate to a trustee for the benefit of his creditors. The appellants had notice of this act of bankruptcy on the same date. On the 21st and 22nd of February the valuation was made, and the amount agreed at £400. On the 22nd of February the bankrupt gave a receipt to Bailey for the amount of the valuation, and the brewers gave the bankrupt a receipt for the amount due from him to them. The £400 was paid by Bailey to the brewers. A receiving order was made against the bankrupt on the 26th of February. The trustee in bankruptcy moved in the County Court for an order on the brewers to pay to him the said £400, less £42 10s. which he admitted to be due to them for rent for the six months prior to the receiving order, as forming part of the bankrupt's estate. The County Court Judge made the order, from which the brewers appealed. For the appellants it was contended that the brewers were entitled to take the amount payable to the bankrupt for the valuation and set it off against the amount due to them from the bankrupt. The contract under which the "mutual dealings" arose had been made long before the bankruptcy, and it was immaterial that the appellants had notice of an act of bankruptcy before the payment of the money under that contract, and relied on

Re Daintrey; ex parte Mani (1900, 1 Q.B. 546). For the respondents it was contended that the title of the trustee related back to the act of bankruptcy on the 20th of February, and after that date the bankrupt had no title to his assets and could not effectually dispose of them.

JUDGMENT.

Bigham, J., held that it was a clear case of mutual credit called into existence at the date of the agreement and continuing to the end of the tenancy, and not affected by any subsequent act of bankruptcy. At the date of the act of bankruptcy the bankrupt owed the appellants £502 and was to get a sum for valuation of his stock-in-trade, although the amount had not then been fixed. That sum was the subject-matter of the mutual credit and the bankrupt could only use it for the purpose of paying the appellants, who were entitled to retain it as against the trustee in bankruptcy.

A. T. Lawrence, J., concurred. The rights of the landlords arose by virtue of the mutual credit clause in the agreement. The trustee could not set that aside and must take the estate subject to the conditions of that agreement.

Appeal allowed.

(51 S.J. 30.)

KING'S BENCH DIVISION.

November 12.

(Before BIGHAM, J.)

Re Tyler; ex parte The Trustee.

Bankruptcy—Insurance—Claim for Premiums on Policies Paid by Bankrupt's Wife after Bankruptcy—Property of Bankrupt—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 44.

Motion by the trustee in bankruptcy for a declaration that the balance of the proceeds of two insurance policies on the life of the bankrupt left after payment of the mortgagees of the said policies formed part of the property of the bankrupt divisible among his creditors. From a statement of facts which had been agreed upon between the trustees and the widow of the bankrupt, who was respondent to the motion, it appeared that at some date prior to 1893 the bankrupt had taken out two policies on his life, which upon the 13th of April 1893 he mortgaged to Child's bank to secure an advance. Towards the end of 1895 the bankrupt was short of money and requested his wife to keep up the premiums on the policies and pay the interest due under the mortgage. On the 29th of January 1896 he committed an act of bankruptcy, a receiving order was made against him on the 16th of July, and he was adjudicated bankrupt on the 27th of August of the same year. A trustee was appointed, who had since been released, and at the date of the notice of motion the Official Receiver was *ex-officio* trustee in the bankruptcy. The bankrupt's wife kept up the payment both of the

premiums and of the interest due under the mortgage until the death of the bankrupt in March 1906. Neither the trustee nor the Official Receiver was aware that the wife was paying the premiums or interest. After paying off the mortgagees there remained a balance of the proceeds of the policies amounting to £514 16s. 8d. The trustee claimed the whole of this sum as forming part of the property of the bankrupt divisible among his creditors, but his claim was opposed by the widow, who demanded the repayment of £481 18s. 2d. expended by her in keeping up the premiums and interest. Counsel for the trustee submitted that the bankruptcy had revoked the wife's authority to pay the premiums and interest, and that she could only claim, if at all, as an ordinary creditor. The policies had vested in the trustee before she had made any payments, and she was simply in the position of a person paying another's debt without being requested to do so. The trustee had no power to pay to the widow the sums claimed by her, and she had no lien on the proceeds of the policies for the money paid by her. He cited *Ex parte Simmonds; re Carnac* (34 W.R. 421, 11 Q.B.D. 308) and *Re Leslie; Leslie v. French* (23 Ch.D. 552). Counsel for the widow was not called upon.

JUDGMENT.

Bigham, J.: The trustee is an officer of the Court and must do what the Court considers to be justice. To repay these sums to the widow may not be justice in law, but it is the right thing to do. It would be a great injustice if the money were not refunded, and the trustee must pay back to the widow the money she has expended in keeping up the premiums and interest. Application dismissed.

(51 S.J. 52.)

Company Law.

CHANCERY DIVISION.

November 2 and 5.

(Before KEKEWICH, J.)

Re Standard Rotary Machine Co., Lim.

Company—Debentures—Floating Charge—Deposit of Shares with Bank—Priority.

This was a motion by the trustees of the London, City, and Midland Bank, asking that the register of members of the company might be rectified by removing the name of John Cave & Sons, Lim., therefrom as holders of 5,000 shares of £1 each, and inserting the names of the applicants, and that the company should be ordered to register the applicants as the owners of such shares. In 1903 John Cave & Sons, Lim., issued debentures which were a floating charge on the property of the Cave company, but so that the Cave company might from time to time mortgage or charge the same premises in favour of its bankers for the time being for securing all moneys then

or at any time owing by the Cave company to them, but not exceeding at any one time the sum of £20,000, but so that the Cave company should not be at liberty to create any mortgage or charge ranking in priority to or *pari passu* with the said debentures. The said debentures were registered under the Companies Act, 1900. The Cave company had 12,095 shares of £1 each in the company standing in its name. By a memorandum of deposit, dated the 10th of April 1905, the Cave company deposited with the said bank 5,000 of the said shares as a security for the payment to the bank of any sum or sums of money for the time being owing to the bank by the Cave company. The shares were transferred to the applicants, and notice of the transfer was duly given to the company. On the 14th of July 1906 a receiver and manager of the Cave company was appointed by an order in a debenture-holder's action. The applicants, having received notice of such appointment, sent the transfer of the shares to the company for registration, but the company refused to register it, on the ground that they had received notice from the receiver of the Cave company not to deal with the shares. The applicants therefore brought this motion. For the applicants it was urged that at the times the shares were deposited with them they did not know of the existence of the debentures, and that even if they had known of the debentures they were not bound to inquire whether there was any clause in them restricting the Cave company from dealing with the assets as against the debenture-holders: *Re Valletort Sanitary Steam Laundry Co., Lim.* (47 S.J. 647; 1903, 2 Ch. 654). For the receiver it was contended that the Cave company had no power to mortgage or pledge its assets in priority to the debentures, and that, the debentures being registered, and the clause prohibiting such a charge being an extremely common one, the bank ought to have known of the existence of these debentures and of the prohibiting clause therein contained, and that therefore the applicants could not make good their claim as against the prior charge of the debenture-holders, to have the register rectified.

JUDGMENT.

Kekewich, J., in giving judgment, said that the question was whether the charge to the bank was good as against the receiver, who represented the debenture-holders. It was said that the debentures had to be registered, and that therefore the bank had notice of everything contained in them, and were bound to inquire whether there was any clause restricting the Cave company from dealing with the assets as against the debenture-holders. Were they bound to do so? The question has been decided in *Re Valletort Sanitary Steam Laundry Co., Lim.*, a case that is recognised as sound law. The bank, therefore, were entitled to be registered as the owners of the shares.

(51 S.J. 48.)

CHANCERY DIVISION.

November 13.

(Before WARRINGTON, J.)

Re Anglo-Italian Bank (Limited and Reduced).

Company—Practice—Reduction of Capital—Paying Off Capital in Excess of Company's Wants—Procedure—Companies Act, 1867 (30 & 31 Vict. c. 131), secs. 9, 15—Companies Act, 1877 (40 & 41 Vict. c. 26), secs. 3, 4.

Petition. This was a petition by the company for the sanction of the Court to a reduction of the capital of the company by returning to the shareholders cash not required for the purposes of the company to the amount of £4 per share and by reducing the nominal amount of the shares from £5 to £1. The company was incorporated in 1866 with a capital of £400,000 divided into 20,000 shares of £20 each, of which £15 was paid up. By special resolutions duly passed and confirmed the capital of the company had been from time to time reduced, until at the date of the resolution hereinafter mentioned it stood at £50,000 divided into 10,000 shares of £5 each. On the 6th of June 1906 the company passed, and on the 22nd of June confirmed, a special resolution in the following terms:—"That the capital of the company be reduced from £50,000 divided into 10,000 shares of £5 each credited as fully paid up to £10,000 divided into 10,000 shares of £1 each, and that such reduction be effected by returning to the shareholders cash to the extent of £4 per share upon each of the said 10,000 shares and by reducing the nominal amount of each of the said shares from £5 to £1." At the date of this resolution the capital of the company was largely in excess of the wants of the company. The petitioners referred to *Re Calgary and Edmonton Land Co.* (50 S.J. 126; 1906, 1 Ch. 141), in which Buckley, J., had held that the Court could not approve a minute which stated that capital had been returned until this had actually been done; and to *Re Lees Brook Spinning Co.* (54 W.R. 563; 1906, 2 Ch. 394), in which Swinfen Eady, J., laid down that the order of the Court and the registration of the minute were to precede any repayment of capital.

JUDGMENT.

Warrington, J., confirmed the reduction, and, following the decision of Swinfen Eady, J., approved of a form of minute in the following terms:—"The capital of the Anglo-Italian Bank, Lim. (incorporated A.D. 1866), is £10,000 divided into 10,000 shares of £1 each, instead of £50,000 divided into 10,000 shares of £5 each. At the date of the registration of this minute each share is to be deemed to be fully paid up."

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(51 S.J. 48.)

Law Reports.

Company Law.

COURT OF APPEAL.

Nov. 19.

(Before WILLIAMS, MOULTON, and BUCKLEY, L.JJ.)

Peel v. The London and North-Western Railway Company.

Railway Company—Director—Expenditure — Ultra Vires—Proxies — Stamping—Form of Proxy — Canvassing for Votes.

Appeal from decision of Warrington, J.

The plaintiffs, who were stockholders in the defendant company, claimed an injunction to restrain the company and its directors from using the funds of the company in paying for (a) the printing or sending out any proxy papers for use at any meeting of the company, with the names of the proposed proxies thereon, or any other proxy papers, circulars, or letters calculated to obtain for the directors or otherwise to influence the votes of stock and shareholders of the company at any meeting of the company; or (b) any services rendered or time spent or expenses incurred by any persons (whether or not officers or servants of the company) in seeking to obtain for the directors or otherwise to influence such votes as aforesaid.

In 1902 certain questions of policy relating to the management of the railway arose between the plaintiffs and the directors of the company.

The directors, previous to the half-yearly meetings of the company, held in February 1905 and August 1905, with a view of obtaining the support of the stockholders of the company in respect of their policy, sent out printed and stamped proxy papers with the names of three directors printed thereon, and the return postage thereof, and also circulars stating their case, and asking for the votes of stockholders; and they also caused some of their officers to interview certain of the stockholders with a view to obtaining their votes.

Warrington, J., following *Studdert v. Grosvenor* (1886, 55 L.J. Rep., Ch. 689; L.R. 33 Ch.D. 528), granted an injunction as asked.

The defendants appealed.

JUDGMENT.

Their Lordships allowed the appeal, holding that the directors had the right and duty of putting before the stockholders what they believed to be the right policy in the interests of the company, and, after giving the necessary information, sending out stamped proxy papers and endeavouring to obtain their support. The directors were entitled to be indemnified out of the funds of the company for any expenses so incurred.

Appeal allowed.

(L.J. 753.)

Income Tax.

KING'S BENCH DIVISION.

October 26.

(Before BIGHAM, J.)

W. Hancock & Co., Lim. v. Gillard.

Property Tax—Landlord and Tenant—Deduction from "rent payable"—Income Tax Act, 1842 (5 & 6 Vict. c. 35), s. 60, No. IV., Ninth—Compensation Fund, Licensing Act, 1904 (4 Edw., VII. c. 23), s. 3, subsec. 3—Deduction from Rent in respect of Contributions to.

Action for 14s. balance of rent alleged to be due. The defendant was the tenant at a yearly rent of £100, and licensee of the licensed premises of which the plaintiffs were the owners. Under the provisions of section 3, sub-section 2, of the Licensing Act, 1904, the defendant paid £20 in respect of the contribution due to the compensation fund established by that Act. Under sub-section 3 he became entitled to deduct, and did deduct, a certain proportion of this payment, determined by a scale set out in Schedule II. of the Act, amounting in this case to £14, from the rent due to the plaintiffs, consequently paying to them £86 instead of £100, the rent reserved by the lease. The premises were assessed for the purposes of income-tax at £291 14s., and the defendant, between January 10 and April 10 1906, paid £14 11s. 8d. in respect thereof, at the rate of 1s. in the pound on the amount so assessed. By section 60, No. 4 (Ninth), of the Income-tax Act, 1842, the defendant became entitled to deduct from his next instalment of rent, due on April 10 1906, so much of the above payment as one shilling in the pound on the "rent payable" by him would amount to. The defendant deducted £5, being at the above rate on £100, the rent reserved by the lease. The plaintiffs claimed that he was only entitled to deduct £4 6s., being at the above rate on £86, the actual amount of rent paid to them.

JUDGMENT.

Bigham, J., held that the defendant was entitled to deduct so much of his payment of property tax as amounted to 1s. in the pound on £100, the rent reserved, and not on the £86, the amount of the rent as reduced by the deduction of the contribution to the compensation fund established by the Licensing Act, 1904.

(L.J. 719.)

Miscellaneous.

CHANCERY DIVISION.

November 13.

(Before SWINFEN EADY, J.)

Dott v. Brickwell.

Money-Lenders Act, 1900—Registration of Money-Lender—Unregistered Money-Lender—Action for obtaining a Loan by Fraud—63 & 64 Vict., c. 51, s. 2, sub-sec. 1.

This was the trial of an action asking for a declaration that two sums of £200 and £50 had been obtained from

the plaintiff by the fraudulent misrepresentations of the defendants, and for payment of those sums with interest. The alleged misrepresentations related to the acquisition by the defendant H. T. Brickwell, a theatrical manager, of the right to produce a comic opera provisionally called "Love's Idol," written by Herbert Sparling, S. Stanislas, and J. F. Soutar. According to the plaintiff Brickwell had told him he could acquire the right for £175, to be paid to the authors, and that he would want £25 more for expenses in introducing the opera to influential persons. If the plaintiff would advance the money for these purposes he should have a half-share in the profits, the £200 being first repaid thereout. The plaintiff accordingly paid £200 to Miss Brickwell at the request of her father, H. T. Brickwell, the latter being an undischarged bankrupt, and at plaintiff's request a copy of the agreement made with the authors was sent to him. In this copy the consideration was stated as £175, but in the agreement itself (which was made with the daughter for the reason above referred to) it was £100, which was the amount actually paid to the authors, but the defendant attributed the discrepancy to the error of a typist employed by a Mr. Chapman, with whom he had business relations. His story of the transaction was that, having had an offer of the opera for £150, he had mentioned it to the plaintiff, who thereupon proposed to go shares in the venture to the extent of £200, and that the money was paid on that footing. The £50 was paid to Miss Brickwell a month later under circumstances also variously described by the respective parties, and an I O U for £52 10s. was given. The plaintiff is a moneylender, and being unregistered as such the Moneylenders Act, 1900, was set up in defence, but the plea was abandoned as far as regards the £200.

JUDGMENT.

Mr. Justice Swinfen Eady: In this case the plaintiff has been held to be a moneylender, and for the purposes of these proceedings it is not disputed he comes within the Moneylenders Act, 1900. His claim is, first, for £200, which he says was obtained from him by fraudulent misrepresentations made to him at the time of payment. His complaint is that the defendant Henry Thomas Brickwell, an old friend of his, who unfortunately is an undischarged bankrupt, and to whom plaintiff has been paying £10 a week, came to him and obtained the £200 on representations that he had been offered a comic opera on very favourable terms—namely, for £175, to be paid to the authors, and that he wanted this sum and £25 for expenses of hiring rooms and a piano for the purpose of giving people some idea of the opera. The plaintiff says that the offer defendant made was that if he would provide this sum for those purposes there was to be no personal liability to repay it, but that out of the first profits after paying royalties the £200 was to be repaid, and the residue

divided in equal moieties between the plaintiff and defendant. Then the defendant asked that the agreement should be in the name of his daughter on account of his bankruptcy. The daughter was made a co-defendant, and has given evidence. It has not been alleged either in the pleadings or before me that any misrepresentation was made by her, and she has been said to be merely her father's nominee; but I am relieved from considering that question, because no judgment is asked against her. The plaintiff, having agreed, and having paid the £200, about which payment there is no doubt, asked for a copy of the agreement with the authors, and a document was sent him, which purported to be a full and complete copy, agreeing in every particular except that instead of £100, the amount which appears in the original, the copy has £175 both in words and figures. There is no doubt that this was an untrue statement. The defendant says he was using Chapman's office, and that the copy was made by the typist there, and Chapman says the typist then employed was a temporary one, and was dismissed by him for inaccuracy. When pressed about the £175 Chapman says the copy was not made from the original, but, as he believes, from rough notes and a draft; but no documents have been produced tallying with his description, and as the copy contains the signatures it must have been prepared from the completed instrument. It is a curious coincidence that the sum appearing in the copy should be the very sum which the plaintiff says defendant told him was to be paid. The defendant denies the plaintiff's story, and says he told the plaintiff he could get the play for £150, and the plaintiff replied, "If it is so cheap, why should not I be in it? Suppose I give £200," and that plaintiff then arranged to give that sum. I have no hesitation in accepting the plaintiff's version as correct, and in believing that the £200 was arrived at in the way he says, and I do not accept the story of the typist's mistake, for it seems to me as if the larger sum had been put in to agree with the statement which had been made to the plaintiff. Then as to the £50, the plaintiff's story is that it was obtained by misrepresentation; that the defendant came to him and said he wanted money for the expenses of a syndicate he was forming, and that he was trying to get young Cambridge men to join it. The defendant says nothing was mentioned except providing money for Chapman to go to Cambridge, but his answers to interrogatories are inconsistent with this, and I think that misrepresentation was in fact made with regard to the £50. Under these circumstances the plaintiff is entitled to recover £200 with interest. As to the £50, it was held in *Victorian Daylesford Syndicate, Lim. v. Dott* (21 *The Times* L.R. 742; 1905, 2 Ch. 624) that a contract in breach of the statute is illegal and void, but here the plaintiff is not suing on any contract, but says that the £50 (not £52 10s., the amount of

the I O U) was obtained from him by fraudulent misrepresentation, and he asks for damages. In my opinion he is entitled to recover damages for the fraud by which he has been deprived of £50, the use of which he has lost since the month of June 1905. That loss is the measure of damages, and I assess them at £53. There will be judgment for £200 with interest from the date of payment at 5 per cent., and for £53, and the defendant H. T. Brickwell will pay the plaintiff's costs and those of his co-defendant.

(23 *Times Law Reports*, 61.)

KING'S BENCH DIVISION.

November 14.

(Before CHANNELL, J.)

Bevan v. The National Bank, Lim.—Bevan v. The Capital and Counties Bank, Lim.

Banker—Cheque—Crossed Cheque—Receiving Payment for a Customer—Giving Credit to Customer before Cheque Cleared—Crediting Customer in Bank's Books—Negligence—Holding Out—Name of Individual same Name as Firm—Bills of Exchange Act, 1882 (45 & 46 Vict. c. 61), s. 82.

These two actions were tried together and raised similar points.

BEVAN v. THE NATIONAL BANK, LIM.

The plaintiff's claim was for damages for the wrongful conversion of cheques belonging to the plaintiff, or alternatively, for money received in respect of the said cheques by the defendants for the use of the plaintiffs.

The facts and the learned Judge's inferences therefrom are fully stated in the judgment.

Mr. Powell, K.C., in opening the plaintiff's case, said that the plaintiff had in 1894 invested £4,000 on debentures issued by a company called the Malcolm Wade Printing Ink Company. In 1897 the plaintiff commenced a debenture-holders' action, and a receiver was appointed, one Malcolm Lascelles Wade continuing the management. In January 1898 the plaintiff offered for the goodwill and the assets of the company the sum of £1,800, and in October 1898 an assignment was in consequence made to him of the business, &c., as from January 1898. The plaintiff took offices and a factory in his name, and Malcolm Wade continued as manager, the latter receiving from the plaintiff 5 per cent. commission on the gross sales in addition to a minimum weekly sum of £7, being £4 per week as salary, and £3 per week for expenses. When the plaintiff took over the business he opened an account for the purposes of the business at a bank in Cheapside, which was subsequently absorbed by Lloyd's Bank. The account was opened in the name of "Malcolm Wade & Co., C. M. Bevan, sole proprietor." All cheques were drawn on that bank, the words "Malcolm Wade & Co." being placed thereon by means of a rubber stamp and the plaintiff sign-

ing his own name thereunder. Wade had no authority to draw cheques, but had authority to endorse cheques received, and it was his duty to pay all the business cheques into the Cheapside branch of Lloyd's Bank. The conduct of the business was left almost entirely in Wade's hands, the plaintiff from time to time visiting the business and receiving reports in relation thereto. The accounts were audited, but no audit was made after the year 1903. Owing to ill-health the plaintiff's attendances on the business became less, and in 1902 there being no profits the plaintiff expressed a wish to sell, or, in default, wind up the business. On April 29 1905 Wade died. It was subsequently discovered that Wade had been embezzling and falsifying the accounts, by means of a supplementary Cash Book. The defalcations amounted to about £1,800. It was discovered that Wade had opened in 1902 an account with the defendants' bank in his own name. In the Signature Book was the entry "Malcolm L. Wade, trading as Malcolm Wade & Co.," but the account in the Ledger was headed and was always worked in the name of "Malcolm Lascelles Wade." Wade would select certain cheques received and enter them, not in the ordinary Cash Book, but in the supplementary Cash Book, and also post them in the Ledger. These cheques he then paid into his private account at the defendants' bank. Some payments were made out of that account by Wade for the purposes of the business, but those were less than the payments in. Counsel for the plaintiff contended that the defendants had received cheques so drawn as ought to have called their attention to the fact that they were not properly receivable by them. Several cheques drawn by various firms made payable to "Malcolm Wade & Co. or Order" were paid into Wade's account at the defendants' bank. Of these all were crossed generally ("& Co."), some were crossed "not negotiable" and "account of payees" in addition, and some were crossed "not negotiable." Wade endorsed these cheques "Malcolm Wade & Co." by means of a rubber stamp, writing thereunder "M. L. Wade." Some cheques were drawn by the plaintiff on Lloyd's Bank in favour of "M. L. Wade or Order," and signed "Malcolm Wade & Co., C. M. Bevan," and sometimes the words "account wages" would be "added to the cheque; these cheques would be endorsed M. L. Wade." The bank ought to have noticed that something was irregular by such cheques being paid into Wade's private account. The bank had no right to place these cheques to "Malcolm Lascelles Wade's" account. On the very day when the cheques were paid in there had been an immediate credit, entries being made in the Ledger and then in the Pass Book, thus going further than that done in the case of *Akkrokkerri (Atlantic) Mines, Lim. v. Economic Bank* (20 *The Times* L.R. 564; 1904, 2 K.B. 465) and Wade being allowed to draw against the amount. There had been an

immediate credit, and a receipt by the defendants for themselves within the meaning of *Capital and Counties Bank, Lim. v. Gordon* (19 *The Times* L.R. 462; 1903, A.C. 240), and there had been an effective credit. The acts complained of being prior in date to the Bills of Exchange (Crossed Cheques) Act, 1906 (6 Edw. VII., c. 17), which was not retrospective, that statute did not apply. The words "not negotiable" ought to have been notice to the bank that the cheque might not be in the right hands. Those words ought to impose more strictness on the part of a bank than when they were omitted. As the defendants relied on the provisions of section 82 of the Bills of Exchange Act, 1882 (45 & 46 Vict., c. 61)—which provides: "Where a banker in good faith and without negligence receives payment for a customer of a cheque crossed generally or specially to himself, and the customer has no title or a defective title thereto, the banker shall not incur any liability to the true owner of the cheque by reason only of having received such payment"—the onus was on the defendants to show that they came within the protection of the section. The defendants had to prove that they took the cheques in good faith, and that the cheques were taken without negligence, that they received payment without negligence, and that they were received for a customer. The defendants alleged that they had received the cheques in good faith, without negligence and for a customer, and were protected by section 82. They further alleged that Wade had been held out as sole proprietor or as a person having authority to deal with the cheques. They claimed that so far as the cheques had been used by Wade for Bevan's business they could set off that amount against the plaintiff's claim.

Mr. Atkin, K.C., contended on behalf of the defendants that the bank had acted in good faith. Wade was a customer, and the bank had received payment for him without any negligence. As to the suggestion that the bank was negligent in not discovering that another person and not Wade was the proper person to draw cheques, or that another person was drawing cheques on behalf of Malcolm Wade & Co., the duty of the teller at the bank was to pay particular attention to the endorsements on the cheques, but not to the name of the drawer. It was not negligence that the name of C. M. Bevan on cheques drawn by Malcolm Wade & Co. on Lloyd's Bank and paid into Wade's account at the defendants' bank had not been noticed. Cheques had been paid in for some time, yet no complaint had been made by the plaintiff. The defendants only became holders to a very limited extent. The evidence proved that credit had not been given until after the cheques had been cleared. The entering of the cheques paid in immediately in the Ledger was not a giving of credit—*Akkrokkerri (Atlantic) Mines, Lim. v. Economic Bank* (1904, 2 K. B. 465). The entries in the Pass

Book were not made till the following day, though in the case of cheques paid in after 2.30 p.m. the result would not then be known of the clearing. Cheques paid in before 2.30 p.m. would be cleared and the result known before the entries in the Pass Book were made. There were two occasions, however, on which the defendants credited Wade before the money had been collected, but in those cases the defendants were protected, because Wade had been held out as a person having authority to deal with the cheques. The plaintiff by his conduct had allowed Wade to act as if Wade had power to deal with the cheques—*Ramasotti v. Bowring* (7 C.B. N.S. 851), and *Harper v. Marten* (11 *The Times* L.R. 368). The slightest examination of the books by the plaintiff would have disclosed to him the existence of the supplementary Cash Book, and he was negligent in omitting that precaution.

Mr. Powell, for the plaintiff, in reply, admitted that the defendants acted in good faith, but he contended that the defendants had been negligent in their dealing with the cheques, as the fact that they received cheques drawn by "Malcolm Wade & Co., C. M. Bevan" should have put them on inquiry. Even assuming that the defendants had not been negligent, they must show that they took the cheques merely as a conduit pipe for their customer. They had failed to show that, and the case came therefore within the decision in *Capital and Counties Bank v. Gordon*.

Mr. Justice Channell: That appears to be so in regard to some of the cheques.

Counsel stated that all the cheques were taken in the same way. As soon as the cheques were received by the defendants they were credited to Wade in the bank Ledger, and the defendants allowed the cheques to be drawn upon at once, or at all events they could have been at once drawn against. That took the defendants out of the protection of section 82. The defendants became holders for value of the cheques. *Ex parte Rickdale* (19 Ch.D. 409), *Royal Bank of Scotland v. Tottenham* (10 *The Times* L.R. 569; 1894, 2 Q.B. 715). With regard to the case of *Akkrokkerri (Atlantic) Mines, Lim. v. Economic Bank*, the decision there was not in point. The bank in that case was not a bank of the ordinary type, and by its very constitution it was an agent for collection. There was also a communication beforehand to the customer that credit would not be given until the cheques were cleared. That case, therefore, was no authority in favour of the defendants. It was said, however, in the present case that the plaintiff was estopped by his conduct from claiming in respect of these cheques, inasmuch as he in effect held out Wade as proprietor and kept in the background himself. As to this there was no holding out of Wade. The plaintiff had no knowledge of the fact that Wade had an account with the defendants. If the plaintiff had made an investigation of the books and thereafter did nothing the case might be

different, but the plaintiff never knew of the supplementary Cash Book. It was also said by the defendants that the proceeds of the cheques went into the plaintiff's business. In only a very few instances could that be suggested, and in any event there were no facts upon which the point could now be argued. The matter would be for an account.

BEVAN v. THE CAPITAL AND COUNTIES BANK, LIM.

The plaintiff's claim was in respect of two cheques paid by Wade into his private account which he had opened at the defendants' bank at a time which was almost simultaneous with the opening of the supplementary Cash Book by him. The facts were very similar to those in *Bevan v. The National Bank*.

Wade opened this account in the name of "Malcolm Lascelles Wade," and no indication was then given that he carried on business as "Malcolm Wade & Co." Two cheques were paid into Wade's account, the one dated June 23 1901, drawn upon Barclay & Co. in favour of Malcolm Wade & Co. crossed "not negotiable" and "account of payees." The second cheque was crossed "not negotiable." The bank manager, when cheques payable to "Malcolm Wade & Co." were paid in and endorsed by Wade as "Malcolm Wade & Co.," did not inquire as to who the "company" was, taking it for granted that there were no partners, and that Wade was trading in that style. Neither of the cheques were credited to Wade before they had been cleared. It appeared from the evidence that a cheque drawn by "Malcolm Wade & Co., C. M. Bevan" had been paid in before the dates of the cheques in question, but the junior clerk had not called the manager's attention thereto. The first cheque crossed "not negotiable" and "account of payees" was for £63 15s., and from the supplementary Cash Book it appeared that three items amounting to that sum had been paid out on account of the firm's debts, with the exception, perhaps, of the last item—i.e., £5 12s. 6d.—which was doubtful. It was contended for the plaintiff that the bank had been guilty of negligence in receiving the cheques.

JUDGMENT.

Mr. Justice Channell said that he had now to give judgment in these two actions, which were almost identical. He would give judgment in the first action first because the greater part of what he had to say in reference to it would be applicable to the second action, and he would then add anything that was necessary as to the latter. The action was brought by Mr. Bevan, who was the sole proprietor of a business carried on under the firm-name of Malcolm Wade & Co. Malcolm Wade was his manager, and the person who appeared as taking the active part in the management of the business. How that came about was this. Malcolm Wade had originally had a business

of his own, which later he formed into a company. Mr. Bevan advanced money to that company upon debentures, and eventually he had to bring a debenture-holder's action, which resulted in the liquidation of the company, and he (Bevan) bought from the liquidator the business and goodwill. He did not himself know anything about the manufacture of printing ink, and as it was therefore necessary that he should have a manager, he employed Malcolm Wade in that capacity. Desiring to retain what goodwill there was attached to the name of Malcolm Wade, Mr. Bevan determined to carry on the business under the name of Malcolm Wade & Co. He left the entire management to Wade, and one of the points that had been argued turned upon that—namely, to what extent did that mode of carrying on the business amount to a holding out of Wade as being either a partner in the business or sole proprietor of it? It was contended that as nobody else appeared in the management, and as Wade's name was the only name that appeared, that that amounted to a holding out of Wade as sole proprietor of the business, and as such entitled to deal with its property as he liked. There was very little authority about the effect of using as a firm-name the name of a particular existing individual, and employing that person in some capacity in the business. One case was quoted by Mr. Atkin in which the facts were extremely like this, the case of *Harper v. Marten*. That was a case in which an undisclosed principal came forward to sue upon a contract. So also was the other case of *Ramasotti v. Bowring*, upon which the decision in *Harper v. Marten* mainly proceeded. These cases involved somewhat different considerations from those arising in the present case, and he did not think there was any evidence in the present case upon which he ought to find that Wade was held out to anybody, still less to either of the defendant banks, as being the sole proprietor of the business. The use of Wade's name, coupled with the fact that he was there in the apparent management of the business, did amount, in his opinion, to a holding out of Wade as a partner, but it was not enough for the defendants to show that, because what Wade did in paying the firm's cheques into his private account was clearly beyond a partner's authority. As to the firm-name of Malcolm Wade & Co., it was perfectly true that many individuals trading on their own account added "& Co." to their name, probably to distinguish their trade transactions from their private transactions, but that was not so universally done that one could assume that because the name was "Malcolm Wade & Co." there was no "& Co."; no one had a right to assume that there were no partners. It seemed to him, therefore, that, although there was a holding out of Wade as a partner, there was no holding him out as sole proprietor. The main question he had then to consider was whether the defendants

entitled to the protection of section 82 of the Bills of Exchange Act, 1882; but before he came to the construction of that section he would state shortly what happened. When Mr. Bevan took over the business and started to conduct it under the management of Wade, he opened a banking account with Lloyd's Bank, and it was arranged that he only should sign, the form adopted being that a rubber stamp with the name "Malcolm Wade & Co." thereon was impressed almost invariably, and below that he signed his own name, "C. M. Bevan," and without that signature Lloyd's Bank would not honour a cheque. That was the real firm account. Mr. Bevan, living in the country, being part of the time in ill-health and part of the time abroad, used to sign cheques in blank, protecting himself by adding the word "wages," and marking the cheques "under £40"; he then entrusted them to Wade as manager to fill up as occasion required. In that way the wages required week by week were provided for, and, of course, any other cheques had to be sent to Mr. Bevan for his signature. It was obvious that that was not a very convenient method of doing business, especially when Mr. Bevan was abroad. Wade, in fact, when he became manager, opened two banking accounts—one with the Capital and Counties Bank, and later the other with the National Bank, and Wade commenced the practice of paying in firm's cheques—that was, cheques payable to the firm—into one or other of these two accounts, and he opened at about the same time as the first of these banking accounts a supplementary Cash Book, in which he debited himself with the cheques that he paid in to one or other of these accounts (using the proper Cash Book of the firm for those cheques which passed through Lloyd's Bank), and setting against those cheques in the supplementary Cash Book payments which he professed to have made on account of the firm. The transaction was a peculiar one, but in all probability it was commenced without any fraudulent intent, and there would have been no objection to it if he had told Mr. Bevan and got his authority. That, however, Wade never did. That being what happened, it was necessary to consider what the effect was in relation to the defendant banks. It followed from the peculiar course of proceeding that Wade should pay into the bank the firm's cheques; whether it was done *bona fide* or fraudulently, that was an essential part of the scheme. He also endorsed the cheques. He had authority to endorse cheques for the purpose of paying them into Lloyd's Bank. Not much had been said upon the matter of the endorsements. But, inasmuch as he (the Judge) had said that Wade was held out as a partner, and as a partner he would have authority to endorse cheques, no complaint could be made as to the endorsements. Upon the facts it was clear that besides the cheques, the subject of the two actions, there must have been a considerable number

of other cheques paid in, and he gathered that the cheques which had been selected were those marked "not negotiable." Obviously there would have been no case as to cheques not so marked, and it would have been practically hopeless for the plaintiff to have sued in respect of them. In the first action there were about 20 cheques and in the second action two cheques, which were all marked "not negotiable." What happened in reference to the opening of the account with the National Bank was this. Wade was introduced to the manager by a gentleman known to the bank. He was described as a printing ink manufacturer, and he signed his name first as "Malcolm L. Wade," and the account was about to be opened simply as a private account of Malcolm Wade; but in the course of conversation he appeared to have said to the manager that he traded as Malcolm Wade & Co. Thereupon the manager, thinking it would be better to have the signature of Malcolm Wade & Co., gave the book to Wade to sign again, but he merely signed "Malcolm L. Wade" again, saying that he was Malcolm Wade & Co. Very shortly afterwards cheques began to be paid in which were payable to Malcolm Wade & Co., but these presumably were not marked "not negotiable." These it would be perfectly right to place to Wade's account. But when they came to a cheque which was marked "not negotiable," and also marked "account of payees," the matter was a little different. In the case of such cheques what had to be considered was whether the defendants came within section 82 of the Bills of Exchange Act, 1882. It would be better to deal first with the question under that section whether the defendants received those cheques for a customer. That point had been dealt with in the House of Lords in *Capital and Counties Bank v. Gordon*. There it was said that where credit was given for a cheque as soon as it was handed in, and the cheque was allowed to be drawn against before it had been cleared, the receiving banker received the money not for the customer, but for himself as a holder for value. That being so, the first thing to be done was to look through the cheques to see whether any of them were excluded from section 82 by the fact that credit was really given for them, and therefore that they were not received for a customer. There were three cheques, dated respectively January 6 1905, for £52 14s. 8d.; February 25 1905, for £92 2s. 1d.; and March 25, for £66 16s. 5d., all of which were drawn against before they were cleared, and these, therefore, the bank received payment of in their own right and were accountable for them unless they had any other answer. As to the other cheques in the plaintiff's claim in the first action, it was argued on behalf of the plaintiff that they were in the same category as the three he had just referred to. It was said that the practice of the bank was to enter in their own books the cheques as soon as they were

received; that if a London cheque was paid in before 2.30 on any day it would be cleared the same day; if it was paid in later than 2.30 it would not be cleared until next morning; but that they entered the cheques on the day they were received, and they did so also with country cheques, although these could not be cleared until a later day. Having done that, the practice of the bank further was that if the customer's Pass Book was in the bank they entered the cheque in the Pass Book the next morning, and they entered it as of the previous day, when it was in fact received. Those entries in the Pass Book in respect of cheques paid in before 2.30 on the previous day would not be made until the cheques were cleared, but as to cheques paid in later in the day, and also as regards country cheques, the entries in the Pass Book would be made before the cheques were cleared. It was said for the plaintiff that that was a giving of credit within the decision in *Capital and Counties Bank v. Gordon*. If it were proved in any particular case that the customer got his Pass Book away from the bank early in the day there might then be a complete giving of credit, but it was practically impossible to show that. In a case decided by Mr. Justice Bigham, *Akkroherri (Atlantic) Mines v. Economic Bank*, the question was dealt with whether entries in the bank's own books and not communicated to the customer was a giving of credit. Mr. Justice Bigham held that a credit not communicated came to nothing. Personally he agreed with that view. In his opinion, when the House of Lords talked about credit being given, he considered that meant credit being effectively given. An entry in a person's own book in such a case had clearly no effect until communicated to the person interested. It might be withdrawn, and it was a mere entry for convenience of bookkeeping. If Mr. Justice Bigham did decide that in the case mentioned it would be sufficient for him (Mr. Justice Channell) to follow that decision. He was, however, not quite clear that Mr. Justice Bigham did decide the point, because the facts were not quite the same. In that case there was evidence of a prior agreement that credit would not be given until the cheques were cleared. Here, as he had said, he did not think that the House of Lords meant to say that a mere credit by entry in the bank's books not communicated to the customer would have any effect. Nor in his opinion did any of the other cases show that such an entry would have any effect. But, just as in the case before Mr. Justice Bigham, there was an agreement prior to the cheques being paid in that they should not be taken as credited, so there might be an agreement that cheques should be credited, and the plaintiff in this case appeared to say that such an agreement should be inferred from the practice of the bank. He (the Judge) did not think there was enough to enable him to infer that Wade was entitled by the course of business to

draw against the cheques as soon as they were paid in. He therefore came to the conclusion that as to the cheques other than the three he had mentioned the defendants had received them for a customer and not for themselves within the meaning of section 82. Then came the question, Did they receive them in good faith and without negligence? There was no doubt about it that they received them in good faith. But it was said for the plaintiff that it was negligence on the part of the defendants to place cheques which on the face of them were firm cheques to an account which on the face of it was a private account, especially when marked "account of payees." That marking was not provided for by the Bills of Exchange Act. It had grown up in order further to protect the drawer of a cheque against the consequences of it being lost or stolen. It was a direction to the receiving banker that the drawer desired to pay the particular cheque into the bank which kept the account of the payee. To disregard a direction of that kind, if the banker had information which might lead him to think that the account into which he was paying the amount was not the payee's account would, in his opinion, be negligence. Here the defendants said that they took and paid these cheques into this account because they understood that Wade was trading as Malcolm Wade & Co. He had already held that there was not enough in the case to establish a holding out of Wade as sole proprietor of the business, but those circumstances, which were relied upon by the defendants as showing such a holding out had a material bearing upon the question of negligence, and if the matter stood there alone he should be quite clear that there was no negligence in accepting Wade's statement that he was Malcolm Wade & Co., especially as they had no means of making any inquiry upon the matter. Another point was, however, relied upon as showing negligence. Some months after Wade opened the account a cheque was paid in to that account drawn by Mr. Bevan upon Lloyd's Bank, and it was said that the defendants ought to have seen from that that the proper firm account was with Lloyd's Bank, and that the direction "payee's account" meant pay to Lloyd's. There were also, beginning at a later date, cheques drawn on the National Bank and paid into Lloyd's Bank. It was true that if those things had come before a person in a position to understand banking business they might have raised some suspicion in his mind. The manager had stated that they never came before him, and would only come before a junior clerk, whose duty was to make bookkeeping entries, and who never drew the manager's attention to them. There was this further to be said about it that it did not occur until after a considerable number of cheques were paid in, the defendants taking them in good faith in consequence of Wade's statement that he was the only person trading as Malcolm Wade & Co. That having been going on for

some time, one of these three cheques was paid in which might, if it had come before a principal, have excited some suspicion. It never did come before a principal, and upon the whole he came to the conclusion that, as to the great majority of the cheques, the defendants were entitled to the protection of section 82 as having received them from a customer, and having done it in good faith and without negligence. If he was wrong in that he thought the only case as to negligence at all was as to such cheques as were crossed "account of payees." The remaining question was whether there was any answer by the National Bank as to the three cheques he had referred to. The holding out point did not give them an answer, and the other answer he had to deal with was as to what became of the money. It was, he thought, perfectly clear that if Wade improperly paid into his private account the firm's cheque for, say, £52, and after having paid it in he drew out £52 and paid it to Mr. Bevan, the bankers could not be made liable for the £52. Equally, if he paid the £52 straight into Lloyd's Bank. In this case they had two ways of getting information as to what became of the money. One, of course, was the bank Pass Book, from which, applying the ordinary principle attributing payments in order, could be seen what was the next money drawn out. In this case there was also the supplementary Cash Book, in which Wade charged himself with receiving all these cheques and put on the other side payments he professed to have made for the firm. It was clear that he did make the greater portion of these, and it was clear that of the amounts which he paid into his own private account of money belonging to the firm he applied a large portion of it to the payment of the firm's debts. For a time his book balanced, but it was suggested that items entered as paid in respect of trade charges were fictitious items to conceal his fraud. Disregarding these, it was clear that a large portion of the alleged payments were really made, and, so far as these came out of the cheques in question, the defendants were entitled to take credit for them. To take an account would be difficult, and he thought the best plan would be not to direct an account, but to defer giving final judgment until the parties had had an opportunity of looking into these three cheques to see how far the bankers, upon whom the onus rested, could establish that a part, at any rate, of these three cheques went to pay undoubted charges of the firm. He hoped the parties might be able to come to some

agreement about it to save further expense, because it could not be a very large amount either way. Of course, if an agreement were not come to, the case would have to come on again as to the amount. There would be judgment in the first action for the plaintiff for the amount of the three cheques, unless the defendants were able to show that the amounts went to pay trade liabilities of Mr. Bevan's. As to the second case, the greater part of what he had already said applied, but it was apparent that no credit was given by the defendants against the cheques. Therefore the two cheques in the second action stood on the same footing as the seventeen cheques in the first action, upon which he had given judgment for the defendants. Another matter had been mentioned. In this case there was no statement by Wade that he traded as Malcolm Wade & Co., but the manager of the bank assumed that he did so, believing him to be a respectable man, because he paid into his account the cheques of Malcolm Wade & Co., and the manager came to the conclusion that Wade traded as Malcolm Wade & Co., and therefore that the cheques were properly paid into his account. There was also the fact that cheques were paid in upon another bank before the earlier of the two cheques the subject of the action. But, upon the whole, he thought the bank acted in good faith and without negligence. The bank had, however, another answer in respect of the earlier of the two cheques—that for £63 15s. At the time it was received the supplementary Cash Book was practically balanced. In that book Wade had entered the cheque, and on the other side there were three items making up that amount. That was equivalent to saying that Wade with the proceeds of the cheque paid those three sums. Two of the items so entered were clearly trade expenses. The third, a sum of £5 12s. 6d., was entered as trade charges, but it was suggested that it was fictitious. He was, however, not satisfied of that; he was inclined to think that the item was a proper charge. The bank, therefore, had an answer as to the cheque for £63 15s. The second cheque was not crossed "account of payees," and there was no ground for saying that the defendants were negligent in dealing with it. There would, therefore, be judgment in favour of the defendants in the second action, with costs.

(23 *Times Law Reports*, 65.)

Law Reports.

Administrations.

CHANCERY DIVISION.

November 1 and 6.

(Before KEKEWICH, J.)

Re McClure's Trusts; Carr v. The Commercial Union Assurance Co.

Settlement—Repairs—Outgoings—Capital and Income—Tenant-for-Life and Remaindermen.

This adjourned summons came before the Court for the purpose of determining how certain expenses incurred in respect of the trust estate were to be borne as between the tenant-for-life and the remaindermen. Under the terms of a marriage settlement, dated the 8th of April 1874, and in the events that happened, Thomas McClure took a life interest in the property the subject of the settlement. He mortgaged his said life interest to the defendants, the Commercial Union Assurance Co., and he further mortgaged his said life interest to the West of England Fire and Life Insurance Co. On the 23rd of February 1893 the said Thomas McClure made an absolute assignment of his life interest to the West of England Fire and Life Insurance Co. This assignment has since been transferred to the said defendants. Charles Thomas McClure, one of the remaindermen, gave an assignment by way of mortgage of his interest in the estate to certain persons; he also gave a further charge to the same persons. This said mortgage and further charge were transferred to Harry Mear. The defendant Andrew McClure, another remainderman, gave a mortgage of his interest to the said Harry Mear, and a further mortgage of his said interest to the defendants the Law Union and Crown Insurance Co., and also a further charge on the same interest to the said Harry Mear. The said Harry Mear died in the year 1905, and the defendant Elizabeth Annie Mear was his legal personal representative. The trust estate consisted of house property, and the trustees had recently found it necessary to compel the tenants to fulfil their obligations under the covenants to repair. For this purpose the property had to be surveyed, and notices to repair in accordance with the specifications had to be served on the tenants. The expenses incurred in connection therewith amount to about £200. The trustees called upon the defendants the Commercial Union Assurance Co., as assignees of the life interest of the said Thomas McClure, to pay the said expenses. This the said defendants refused to do, and the trustees thereupon took out this summons to determine how the said expenses were to be borne. For the assignees of the tenant-for-life it was contended that these were extraordinary expenses and should be paid out of capital: *Re Thomas; Weatherall v. Thomas* (48 W.R. 409; 1900, 1 Ch. 319). For

the remaindermen it was urged that these expenses were such as should be borne equitably between the tenant-for-life and the remaindermen: *Re Hotchkys; Freke v. Calmady* (30 S.J. 468, 32 Ch.D. 408).

JUDGMENT.

Kekewich, J., in giving judgment, said that if these expenses were outgoing they would have to be borne by the tenant-for-life. This might be so, if the trustees had done the repairs, but in fact they had only compelled the tenants to do them. The trustees now asked how the expenses should be borne. In *Re Hotchkys* the principle was laid down that such expenses should not be borne wholly either by the tenant-for-life or the remaindermen, but that each party should pay an equitable proportion. *Re Thomas* was not on all fours with the present case. The expenses incurred in this case were not outgoing, but were incurred for the benefit of the property. The principle laid down in *Re Hotchkys* applied. That principle could be effected by raising a mortgage sufficient to pay these expenses and the costs of this application

(51 S.J. 67.)

CHANCERY DIVISION.

November 16.

(Before WARRINGTON, J.)

In re Chalinder and Herington.

Solicitor—Trustee—Power to Charge—Professional Services—Time and Trouble.

This was a case raising a question of interest in relation to matters of executorship and trusteeship—namely, whether a trustee of a will, who was also a solicitor, was entitled to be allowed, as against the trust estate, to charge for business transacted or work done by him or his firm which was capable of being done by a trustee personally and did not require the employment of a solicitor. It turned on the construction of a clause in the will, which allowed the particular solicitor to make certain charges. By his will, made in 1902, J. L. Walker appointed his wife and two daughters and his friends Edward Chalinder, solicitor, and Frank Williams, bank manager, to be executors and trustees thereof. He then gave to E. Chalinder and F. Williams a legacy of £150 each, provided they acted as his executors and trustees, to be paid by instalments of £15 half-yearly. Then, after making dispositions of his property, he made the following declaration:—"I direct that my executor and trustee "Edward Chalinder shall be the solicitor to my trust property, and shall be allowed all professional and other "charges for his time and trouble, notwithstanding his "being such executor and trustee." A summons was taken out by beneficiaries under the will to review a taxation, which had been made pursuant to an order, of the costs of E. Chalinder in the matter of the trust. The

beneficiaries objected to the Taxing Master's certificate on the ground that he had allowed a number of items, which represented charges for business transacted or work done by E. Chalinder or his firm, but which were capable of being transacted or done by the trustee personally and not requiring the employment of a solicitor. The Taxing Master by his answer stated that the items objected to and allowed by him all related to work which would be proper professional work to be done by a solicitor, and charged for against a client who was not an executor, and, even when the client was an executor, could be charged against him personally, though apart from special powers not against the trust estate. The summons now came on for hearing.

Mr. Norton, K.C., and Mr. Alfred Whitaker appeared for the beneficiaries, and argued that the clause meant that the solicitor-trustee could charge for nothing but his professional services as a solicitor, for which, if he had been employed by the trustee, the trustee could have charged against the trust estate, but that it did not include the right to charge for work which, if the trustee had employed a solicitor to do, the trustee would have had to pay for personally and which he could not have charged against the trust estate. If the Taxing Master's view were upheld, it would have the effect of ruling out the practice, according to which conveyancers had for many years adopted Mr. Wolstenholme's form for insertion in wills, where it was intended that a solicitor-trustee should be entitled to charge for non-professional work.

Mr. Clauson, for the solicitor-trustee, contended that the clause meant that the solicitor-trustee should be entitled to charge against the trust estate, and be allowed for everything which he did in connection with the estate, whether the items of business transacted or of work done were or were not things which a trustee not being a solicitor might do himself personally, or whether or not they were things which, if a lay trustee had employed a solicitor to do, he would have been entitled to charge against the trust estate.

JUDGMENT.

Mr. Justice Warrington, in giving judgment, said the question was what the clause meant. To put it in a way familiar to lawyers, the parties interested under the will contended that the clause did not allow the solicitor-trustee to charge for business which was not purely professional, or which might or could have been performed by a trustee who was not a solicitor. That seemed to his Lordship to be the proper view. The testator began by saying that "my executor and trustee E. Chalinder shall be the solicitor to my trust property." That was the governing clause. By itself that was not enough to support the solicitor's contention, because, notwithstanding that the testator might direct that some particular

person should be employed as solicitor to the trust, it would not follow that that person was entitled to charge. Then the testator went on:—"And shall be allowed all "professional and other charges for his time and trouble, "notwithstanding his being such executor and trustee." That additional clause did nothing more than add, to the direction already given that he was to be the solicitor to the trust, a further direction that he was to be entitled to charge for his time and trouble in the capacity of solicitor—it did not, to use the language of Lord Justice Lindley, in *In re Fish; Bennett v. Bennett* (1893, 2 Ch. 413, at p. 420) entitle him to charge "not only for his professional services, but for his trouble as a trustee." It was suggested that it was impossible to arrive at that conclusion without rejecting the words "for his time and trouble." But that was not necessarily so. There might be expenditure of time and trouble on work done as solicitor without that work being done strictly in the professional character of solicitor; for instance, there might be work done by the solicitor as ordinarily acting for the trust estate, and yet not such strictly professional work as advising or preparing drafts done in the strictly professional capacity of a solicitor. Apart from any authority, that conclusion was the one his Lordship should arrive at, and he did not think there was any authority to justify him in arriving at any other. Neither *In re Ames; Ames v. Taylor* (1883, 25 Ch.D. 72) nor *In re Fish; Bennett v. Bennett (sup.)* were the same as the present case. To enable a solicitor-trustee to obtain payment for work for which an ordinary trustee could not be paid directly, nor be allowed payment for what he had paid through another person, there must be words in the will to show a clear intention to that effect. There were no such clear words of intention in the present will. There must be a declaration that the solicitor was not entitled to any items representing charges for business or work done by him or his firm which were capable of being done by him as trustee personally and not requiring the employment of a solicitor, and the taxation must be referred back to the Master with that expression of opinion.

(23 *Times Law Reports*, 71.)

Bankruptcies and Insolvencies.

KING'S BENCH DIVISION.

October 29 and November 12 and 27.

(Before BIGHAM, J.)

Re Van Laun; ex parte Chatterton.

Bankruptcy—Proof—Solicitor's Bill of Costs—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), Schedule 2, R. 22—Solicitors Act, 1843 (6 & 7 Vict. c. 73), s. 41—Solicitors Act, 1870 (33 & 34 Vict. c. 28), s. 4—Solicitors' Remuneration Act, 1881 (44 & 45 Vict. c. 44), s. 8.

Appeal by a creditor from the rejection of his proof by the trustee. The creditor had acted as solicitor to the

bankrupt since 1901. He had on various occasions tendered draft bills of costs to his client, who refused to be bothered with them, and the amounts due from time to time in respect of costs had been agreed between them. On the 14th of December 1904 the costs then due were agreed at £3,818 14s. 4d. On the 10th of January 1905 the client gave the solicitor a mortgage to secure the amount then due and further advances or costs not to exceed £6,000, and covenanted therein to repay the agreed sum of £3,818 14s. 4d., and further advances or costs not to exceed £6,000 in all. The last account agreed between the parties prior to the bankruptcy was dated the 29th of August 1905, and showed the amount then due from the client to be £6,326. The solicitor proved in the bankruptcy for the above sum of £6,326 and £226 interest thereon, claiming the said sums as due under the covenant in the mortgage. He also proved for £800 in respect of costs incurred after the 29th of August 1905, the amount of which had not been agreed, and as to which he admitted that a bill must be delivered. The trustee required the creditor to furnish him with dates and items of the agreed amounts of costs secured by the mortgage, and on the creditor's refusal to give any such details he rejected the proof. Counsel for the creditor contended that he was entitled to prove upon an account stated and a covenant, and that the trustee had no right to demand particulars. If it was contended that as a solicitor he must deliver bills for taxation, the answer was that it was now too late to require taxation. Section 41 of the Solicitors Act, 1843, does not require a bill to be taxed more than twelve months after payment, and this bill was paid by giving the security of the mortgage more than twelve months ago. Giving security has been held to be payment within this section: *Ex parte Turner; re Boyle* (24 L.J. Ch. 71). Counsel for the trustee submitted that by rule 22 of Schedule 2 of the Bankruptcy Act, 1883, the trustee is entitled to require further evidence in support of a proof. He had done so in this case, and his request had been refused. To argue that the proof was on a covenant on a bond was no answer to the trustee, as the Court in bankruptcy can go behind a specialty just as it can go behind a judgment and inquire into the true consideration for a debt. Further, the costs in this case were mostly incurred in litigation, and agreements as to costs of litigious work are governed by section 4 of the Solicitors Act, 1870, which provides that the amount payable under such an agreement shall not be received by the solicitor until the agreement has been examined and allowed by a taxing officer. In the case of *Ex parte Turner; re Boyle*, the security given by the client had been realised and the solicitor paid, and it is doubtful if that case is an authority for the general proposition that giving security is equivalent to payment. In the case of *Re West, King & Adams; ex parte Clough* (1892, 2 Q.B.

102), it was held that retainer of the clients' money by the solicitor to satisfy a bill of costs was not payment. The Court reserved judgment.

JUDGMENT.

Bigam, J., held that, if the question had merely been raised as between the bankrupt and the solicitor, the bankrupt having waived delivery of a signed will would not have been in a position to ask for taxation. As between the trustee and the solicitor different considerations arose. It is the right and duty of a trustee in bankruptcy when examining a proof to require some satisfactory evidence that the debt on which the proof is founded is a real debt, and he may go behind judgments, bonds, or covenants in the course of his inquiry. In the present case he cannot satisfy himself as to the real indebtedness of the bankrupt until he has seen the solicitor's bills, which must therefore be delivered. Appeal dismissed.

(51 S.J. 83.)

Company Law.

CHANCERY DIVISION.

November 28.

(Before JOYCE, J.)

In re Kent County Gas Light and Coke Co.;
ex parte Brown and others.

Company—Rectification of Register—Misleading Prospectus—
Alteration of Circumstances since Issue of Prospectus—
Rescission.

These were applications by way of motion under section 35 of the Companies Act, asking that the register of the company might be rectified by the removal of the names of the applicants therefrom as shareholders and for repayment of the moneys paid by them in respect of their shares on the ground that the prospectus, upon the faith of which they had applied for shares, contained statements which were not in accordance with the facts.

Mr. Hughes, K.C., who with Mr. Martelli appeared in support of the application, said that the prospectus of the company was issued on May 14 1906. One of the principal things complained of was that the gentleman whose name appeared thereon as chairman of the board of directors had in fact resigned his position before any shares were allotted. But beyond this the whole prospectus was misleading. The company was formed to take over a small gasworks at Goudhurst, in Kent. The average profit made by the concern for the five years ended in 1901 was something over £5 per annum. The works were situated in a rural neighbourhood of wide area but having a very sparse population. It appeared that the property had been

sold in 1905 for £2,350, while the price to be paid to the vendors to the company was £21,800. The capital of the company was stated to be £50,000. The prospectus, after drawing attention to the sound and remunerative nature of permanent investments in gas securities, stated that the vendors were so confident as regards the prospects of the company after the developments which were to take place within the next few months, by extending the mains to the within named surrounding districts, that they had guaranteed the dividend of 6 per cent. on the preference shares for the first year and undertook that the dividend on the ordinary shares for the same period should not be less than 8 per cent. It further stated that Goudhurst was the largest parish in England, comprising an area of 9,798 acres, and with the important adjoining districts embraced a neighbourhood of a superior residential character, where the proposed additional facilities for gas supply had been received with very great favour and promises of support. It further stated (*inter alia*) that the consumption when the proposed developments and extension of the mains had been completed should considerably exceed 50,000,000 cubic feet of gas per annum; and that the company would have the advantage of the services as chairman of Mr. S. B. Darwin, who had been connected with the Portsea Island Gas Light Company for over twenty years, the dividends paid by that company for the past sixteen years having been 13 per cent. per annum. It appeared, however, that that gentleman had become connected with the company through answering an advertisement, and had accepted the position of chairman, in which capacity he took part in the issue of the prospectus. Subsequently, on seeing the company adversely commented upon in the financial papers, he had become alarmed and had resigned his post, as was alleged, before the company went to allotment. Counsel stated that the evidence would show that the outside possible consumption of gas in the district would be 10,000,000 cubic feet and that the company could never earn an income which would enable it to pay a dividend on its large capital. It was contended that when any material alteration in the circumstances relating to the company took place between the application for shares and allotment it ought to be communicated to the applicants, and in the absence of such communication the applicants were not bound by their contract to take the shares.

Mr. Gore-Browne, K.C., and Mr. Kirby, for the company, contended that it was immaterial that there might have been a question as to whether Mr. Darwin was going to continue to be a director, as he was in fact still a director at the time of the allotment, and that there was no

misrepresentation on the prospectus entitling the applicants to relief.

JUDGMENT.

Mr. Justice Joyce said that this was not an action for deceit and damages against the directors of this company or the other persons responsible for the prospectus, but was an application under section 35 of the Act by persons desiring to be relieved on the ground that it was not disclosed before the allotment that a material fact stated in the prospectus had been altered. The prospectus was a most cunningly-devised document, and his Lordship did not think he had ever seen a prospectus more artfully framed to entrap the unwary and the inexperienced. He had no hesitation in saying that the bringing out of this company was nothing better than a swindle, and that the public had been most grossly defrauded by somebody, and if there was further litigation he thought it would be found that somebody was a knave and a cheat. The law was that where a person sought relief of this kind, it was enough if there was evidence to show that he was materially influenced by the misrepresentation, and here the misstatement was, in his Lordship's opinion, enough to entitle the applicants to rescission. In "Lindley on Company Law" (6th edit., p. 87) it was stated that "if an application for shares is made on the faith of a statement which is true when made, but which is not true when shares are allotted to the applicant, he may refuse to take them." His Lordship had no doubt that was the law. The prospectus in question contained a particular statement as to Mr. Darwin being the managing director; that prospectus was issued on May 14, and for some reason Mr. Darwin became alarmed. The reason for his alarm, whether it was a quarrel with the directors about his remuneration or not, did not matter; but he went to the offices of the company on May 19, before the allotment, and there saw the promoters and the directors, and, in his Lordship's opinion, the promoters and directors both understood that he was not going to continue to be a director. At the very least they knew that there was a serious question. His Lordship thought that their statements were most unsatisfactory and unscrupulous. There might be a further investigation into the affairs of the company, and he would not therefore say more in detail. The directors were aware that the statement in the prospectus was untrue before the allotment was made. It was neither right nor honest for them to make the allotment, which was made, as his Lordship supposed, under the pressure of the promoters. The applicants were therefore entitled to be relieved of their shares, and there would be the usual order, with costs.

(Times.)

Law Reports.

Bankruptcies and Insolvencies.

BRADFORD COUNTY COURT.

October 16.

(Before his Honour Judge BOMPAS.)

Re Roberts (a Bankrupt).

Bankruptcy Act, 1883, s. 53 (2)—Salary or Income—Payment to Trustee—Fishmonger's Assistant—Weekly Salary—Order Made.

The Official Receiver (Mr. C. L. Atkinson) made an application to the Judge under section 53 (2) of the Bankruptcy Act, 1883, for an order that the bankrupt should pay over to the Official Receiver a part of his salary for the benefit of the creditors. The debtor, George Roberts, had been adjudicated bankrupt, his statement of affairs showing liabilities amounting to £302 3s. 5d. and assets *nil*. He was employed as assistant by a fishmonger at a salary of 28s. a week, his engagement being determinable on a week's notice. Of the liabilities, the sum of £262 11s. 5d. represented damages and costs incurred by the bankrupt as co-respondent in divorce proceedings.

The Official Receiver, in support of the application, argued that the learned Judge had a discretion to make the order, and that it was a proper case for the exercise of the discretion. Section 53 (1) of the Bankruptcy Act, 1883, applies to the case of a bankrupt who is an officer in the army or navy, or an officer or clerk or otherwise employed or engaged in the civil service of the Crown. Sub-section 2 provides that "where a bankrupt is in receipt of a salary or income other than as aforesaid . . . the Court, on the application of the trustee, shall from time to time make such order as it thinks just for the payment of the salary, income, . . . or any part thereof to the trustee to be applied by him in such manner as the Court may direct." He argued that the remuneration paid to the bankrupt in his capacity of fish salesman was "salary or income" within the sub-section, and consequently amenable to the discretion thereby given to the Court, being paid under a contract of service. He relied on *Re Shine* (66 L.T. Rep. 146), where Fry, L.J., said: "It appears to me that whenever we get these four things predicated of a sum of money, first, that it is for services rendered; secondly, that it is under some contract or appointment; thirdly, that it is computed by time; and, fourthly, that it is payable at a fixed time, we have a salary, and that it is not the less a salary because it is liable to be determined by the paying party, or that it is liable to deduction": (61 L.J. 253, Q.B.). If in the present case the 28s. per week paid to the bankrupt was

not "salary," it was, at all events, "income." "Income" in the sub-section, though *ejusdem generis* with "salary," was not identical with it, and had a wider meaning. He also referred to *Re Rogers* (70 L.T. Rep. 107), where Williams, J., says: "To prevent misapprehension with regard to section 53, I wish to add that, in my view, individual earnings which, apart from any suggestion of partnership, are solely the result of personal exertion and skill may very well fall within it" (63 L.J. 180, Q.B.); and to the judgment of Lindley, M.R., in *Re Roberts* (81 L.T. Rep. 467, at p. 468; 69 L.J. 19 Q.B.): "After bankruptcy and before his discharge, whatever property a bankrupt acquires belongs to his trustee, save only what is necessary for his support. He may sue for and recover his earnings if his trustee does not interfere, but what he recovers he recovers for the benefit of his creditors, except to the extent necessary to support himself and his wife and family." He alleged that in the present case the debtor was using the bankruptcy for the purpose of avoiding payment of the Divorce Court damages and costs, and that he could afford to pay a proportion of his earnings.

James Freeman (solicitor, Bradford), for the bankrupt: These earnings are not "salary or income." They are wages. "Income" is confined to earnings *ejusdem generis* with salary, which means remuneration computed annually. Here the bankrupt is only getting 28s. per week, paid weekly. He may be dismissed at any time on a week's notice, and his earnings are therefore stamped with an element of contingency. See Cotton, L.J., in *Re Hutton; ex parte Benwell* (51 L.T. Rep. 677), where he says: "Income of a similar kind with that in the preceding section is intended. The order must not deal with contingent or possible income. You cannot force the bankrupt to go on earning this income": (54 L.J. 54 Q.B.). It is no more than the wages of a working man, and Cave, J., in *Re Jones* (64 L.T. Rep. 804) says: "Following the case of *Re Hutton*, as we are bound to do, we cannot say that the wages of a working man are salary or income within the section": (60 L.J. 752, Q.B.). The payments depend on the will of the bankrupt's master, and are therefore voluntary payments within the principle of *Re Wicks* (44 L.T. Rep. 836; 50 L.J. 620, Ch.). It cannot be contended that the bankrupt is not a working man because he is not a labourer. There is therefore no power in the Court to make any such order as that asked for. To do so would be to extend the Act to a class of persons to whom it was not intended to apply. Again, by the Wages Attachment Abolition Act, 1870, it is forbidden to make any order for the attachment of the wages of any servant, labourer, or workman. On the merits, even if the Court has a discretion, this is not a case for the exercise of it. His wages are only 28s. per week, and he has to support himself and two children.

The Official Receiver, in reply: In *Re Hutton* the bankrupt was a bonesetter, and his earnings were in the nature of professional fees, with no regularity of payment or amount, and no contract. The bankrupt in *Re Jones* was a working collier, and, though his earnings were paid weekly, they varied in amount, according to the quantity of work done, or the time spent in doing it. The observation of Cave, J., was not necessary to the decision, and is too wide in its terms. It can have no weight as against the definition of Fry, L.J., in *Re Shine*. Again, in *Re Wicks* the payment made to the bankrupt was a voluntary allowance, depending on the bounty of some other person. These cases may be distinguished from the present, where we have all the elements necessary to constitute a salary. Again, in *Re Brindley* (4 Morr. 104) it was held that the earnings of a commercial traveller, £100 per annum paid weekly, were salary, though the engagement was terminable on a week's notice. I submit that the case is covered by *Re Shine*, which must have more weight with this court than *Re Jones*, should the latter case be considered to have any application to the present facts. The Wages Attachment Abolition Act is prior in date to the Bankruptcy Act, 1883, and cannot affect its provisions. Moreover, this is not a question of attachment.

JUDGMENT.

His Honour said the point was one of great importance, and he would be better pleased if he could give judgment against the Official Receiver, for in that case pecuniary considerations would not stand in the way of an appeal, and an authoritative pronouncement might then be obtained from the Superior Court. But he considered himself bound by the view taken by Fry, L.J., in *Re Shine*, and was of opinion that he had a discretion. The present case was a proper one for the exercise of this discretion, and an order would be made for the payment of £1 per month.

(L.T. 113.)

KING'S BENCH DIVISION.

November 19 and 27.

(Before BIGHAM, J.)

Re Bennett; ex parte The Trustee.

Bankruptcy—After-acquired Property—Intervention by Trustee—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 44.

Motion by the trustee of the estate of a deceased bankrupt for a declaration that certain moneys in the hands of the respondent formed part of the estate of the bankrupt divisible among his creditors. The deceased had become bankrupt a considerable number of years before his death and had never obtained his discharge. After his bankruptcy he took out two insurance policies on his life, and up the premiums out of his earnings. He died

intestate, and one Percy Bennett was appointed administrator of the estate and distributed the policy moneys amongst the next-of-kin. The trustee had previously brought a similar motion against the administrator, but the administrator had successfully set up the defence that he had administered the estate according to his bond. The trustee then launched the present motion as a test motion against Herbert Bennett, one of the next-of-kin who had received a share of the policy moneys, for a declaration that such moneys formed part of the bankrupt's estate, and for an order on the respondent to pay the same to the trustee. It was contended for the respondent that as the policy moneys were properly acquired after the bankruptcy, the trustee, not having intervened to claim them before the administrator had paid them away, could not now recover them: *Cohen v. Mitchell* (38 W.R. 551, 25 Q.B.D. 262), *Re Ball* (1899, 2 I.R. 313). It was contended for the trustee that the doctrine laid down in *Cohen v. Mitchell* only applied to protect dealings in after-acquired property for value. Bigham, J., reserved judgment.

JUDGMENT.

Bigham, J., held that a transfer of after-acquired property in order to be valid must be for value as well as in good faith. The bankrupt is agent for the trustee to deal with his after-acquired property, but not to give it away. A person who receives a gift of after-acquired property from a bankrupt cannot retain it against the trustee. If the law were otherwise a bankrupt could defeat the operation of section 44 so far as it applies to after-acquired property by giving away his after-acquired property to strangers. Application allowed.

(51 S.J. 83.)

KING'S BENCH DIVISION.

December 4.

(Before BIGHAM and DARLING, JJ.)

Re Hall; ex parte The Official Receiver (Trustee).

Bankruptcy—Money Lent to Bankrupt, with Notice of Act of Bankruptcy, to pay a Composition—Benefit to Estate—Trustee's duty to Act Equitably—Property of Bankrupt—Relation back—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), secs. 43, 44.

Appeal from a decision of his Honour Judge Eardley Wilmot in the County Court at Yarmouth. The bankrupt, J. C. Hall, was the owner of two large fishing boats. His business had been bad for two years or more, and in November 1905 he had the misfortune to lose two "fleets" of fishing nets of the value of £600, which made it impossible for him to continue his business. His largest creditors were the respondents, Messrs. Hobson & Co., fish

salesmen, who held a mortgage on his boats for current account, which at the date of the commencement of the bankruptcy amounted to £340. The bankrupt consulted Hobson & Co. early in December as to his affairs. They took possession of his boats under their mortgage, the bankrupt paid off his crews and stopped business. Hobson & Co. told the bankrupt they would try to arrange a composition with his creditors, and about Christmas 1905 they gave him copies of a circular signed by themselves to distribute among his creditors. This circular was to the effect that J. C. Hall had consulted Messrs. Hobson & Co. as to his affairs, and that they were ready to pay each of Hall's creditors a composition of 4s. in the £ if all the creditors consented to accept it. Each of the creditors received one of these circulars, twenty-seven agreed, but seven refused, not being willing to accept the offer without any investigation of the bankrupt's affairs. It was admitted that these letters constituted notices of an act of bankruptcy. After these letters had all been sent out, between the 28th of February and the 2nd of March 1906, Hobson & Co. lent the bankrupt £158 to pay the assenting creditors their composition of 4s. in the £. After these payments had been made Hobson & Co. sold the bankrupt's boats for £479. Out of this sum they retained £340 against their old debt, and the balance in satisfaction of the £158 which they had lent to the bankrupt with knowledge of his having committed an act of bankruptcy. The bankrupt filed his own petition and was adjudicated bankrupt within three months of the commission of the act of bankruptcy, of which Hobson & Co. had notice when they lent the £158. The trustee claimed that Hobson & Co. ought to pay over all that remained out of the £479 realised by the sale of the boats after discharging the old debt of £340. The County Court Judge dismissed the application, and the trustee appealed from his decision. It was contended for the appellant that the equity of redemption of the boats vested in the trustee in the bankruptcy at the date of the commencement of the bankruptcy, and that the respondents were not entitled to take it in satisfaction of money lent to the bankrupt after the commencement of the bankruptcy, and therefore after the equity had by virtue of the doctrine of relation back already vested in the trustee. It was contended for the respondents that they had benefited the estate by getting rid of the claims of twenty-seven creditors, and that the trustee, being an officer of the Court, should be ordered to treat them equitably and honourably: *Ex parte Simmonds*; *re Carnac* (34 W.R. 421, 16 Q.B.D. 308), *Ex parte Ball*; *re Simonson* (1894, 1 Q.B. 433). The respondents were ignorant of the effect of lending the money after notice of an act of bankruptcy.

JUDGMENT.

Bigham, J., refused to interfere with the discretion which

had been exercised by the County Court Judge. The effect of the payments made out of the respondents' money was that twenty-seven creditors had been cleared out of the way and the estate thereby benefited. When the respondents advanced the money they had no idea that they were throwing their money away, but thought that they were merely adding to the amount charged on their security. It was the trustee's duty to allow them to take the benefit of their security.

Darling, J., concurred.

Appeal dismissed.

(51 S.J. 102.)

Company Law.

CHANCERY DIVISION.

November 27.

(Before WARRINGTON, J.)

Re Charles, Lim.

Company—Winding-up—Petition by Judgment Creditor—Debt Disputed—Action Pending—Application to Substitute Petitioner—Companies Winding-up Rules, 1903, r. 36.

This was a petition asking for a compulsory winding-up order. The petitioner claimed to be a judgment creditor of the company for £67 13s. On the 24th of August 1906 he served the company with a writ claiming to recover the said sum, being an alleged balance due by the company to him in respect of the purchase and sale of certain stocks and shares by the company as stock and share dealers. Subsequently an appearance was entered to the said writ. On the 14th of September an application under order 14 was heard, and the Master made an order giving the company leave to defend the said action provided they paid the amount of the claim into Court within ten days, otherwise the plaintiff would be at liberty to sign final judgment. On the 20th of September the company appealed to the Vacation Judge, but he dismissed the appeal; subsequently, on the 26th of September, they served notice of appeal to the Court of Appeal. On the 28th of September the plaintiff signed final judgment. On the 5th of October—pending the hearing of the appeal—this petition was presented, and it was founded solely on the said judgment debt. On the 10th of November the Court of Appeal made an order "that the defendants have unconditional leave to defend, and that the judgment (if any) entered therein under the order of the Master be set aside." The action was now set down for hearing at the City of London Court on the 10th of January 1907. The petitioner asked that under the circumstances an application for the substitution of another judg-

ment creditor in place of himself be acceded to; if not, that the petition might stand over until the hearing of the action. The company said it was not a case for substitution under rule 36 of the Companies Winding-up Rules of 1903, the basis of which was that the petition must be founded on a valid debt. In this case the debt was gone by the order of the Court of Appeal, and there was therefore no foundation for the petition. They asked that the petition be dismissed.

JUDGMENT.

Warrington, J., said this was a petition presented by a person alleging that he was a judgment creditor of the company, and that he had obtained judgment against the company on the 28th of September 1906 for £67 13s. His Lordship then stated the facts, and said that the effect of the order of the Court of Appeal was to destroy the foundation of the petition by setting aside the judgment on which it was based. It might well be that the petitioner had good grounds for his claim, which he could raise by his action, but the company had obtained unconditional leave to defend, and they said in their defence that the transactions between the plaintiff and themselves had been for differences in the purchase and sale of stocks and shares, and that such transactions were gaming and wagering transactions, and therefore void by virtue of the Gaming Acts. This was, therefore, a petition based on a debt which was disputed, and founded on a judgment which the Court of Appeal had set aside. The petitioner asked for an adjournment, and another creditor applied to be substituted as petitioner under rule 36 of the Companies Winding-up Rules of 1903, on the ground that he had a good judgment debt. His Lordship was of opinion that the rule did not apply to a case like the present one. It only applied to a petition founded on a valid subsisting debt and to a case in which the petitioner, for some good reason, was not able to proceed with his petition. The petitioner in the present case did not consent to withdraw his petition or to have it dismissed, he merely asked for

an adjournment. He was, therefore, liable to have it dismissed. His Lordship accordingly dismissed the petition and refused the application to substitute another petitioner.

(51 S.J. 101.)

Miscellaneous.

CHANCERY DIVISION.

November 9.

(Before KEKEWICH, J.)

In re Emmett; Jenkins v. Emmett.

Statute of Limitations—Debt—Acknowledgment—Affidavit for Probate—Lord Tenterden's Act (9 Geo. IV. c. 14), s. 1.

This was a claim in an administration action for a sum of £2,000 which had been lent by a father to his son, J. G. E., between the years 1889 and 1896. No payment in respect of capital or interest had been paid since 1898, so that the claim was *prima facie* statute barred. The father died in May 1905, and appointed his son one of the executors of his will. The son proved the will together with the other executors, and in the affidavit for probate in the schedule of debts owing to his father appeared the following item: "Money lent to J. G. E. £2,000 and interest thereon up to day of death £412 10s." The son died in October 1905, and this claim was made in the administration of the son's estate by the father's executors, who contended that the item in the affidavit signed by the son was an acknowledgment in writing within Lord Tenterden's Act. On the other hand, it was argued that the affidavit was only made for Inland Revenue purposes and did not amount to a promise to pay the debt.

JUDGMENT.

Kekewich, J., held that the item in the affidavit was a clear admission of the debt, and therefore a sufficient acknowledgment to take the debt out of the Statute of Limitations, and that the claim must be allowed.

(L.J. 753).

Law Reports.

Administrations.

HOUSE OF LORDS.

December 3.

(Before LORD LOREBURN, L.C., LORDS MACNAUGHTEN, JAMES OF HEREFORD, ROBERTSON, and ATKINSON).

Lethbridge v. The Attorney-General.

Revenue—Estate Duty—Policy of Life Assurance—"Interest purchased or provided by deceased"—Finance Act, 1894 (57 & 58 Vict. c. 30), s. 2, subsec. 1 (d).

Certain life policies were settled as collateral security for the mortgage of a life interest in real estate. By an indenture executed some years before his death, the tenant-for-life for valuable consideration assigned his life interest to the remainderman so as to effect a merger. Thereafter the remainderman, the son, kept the policies alive until the father's death, and the son paid off the mortgage on the father's life estate, and raised a surrender of the policies.

JUDGMENT.

Their Lordships, after consideration, reversed the decision of the Court of Appeal (Collins, M.R., Mathew, L.J., and Cozens Hardy, L.J.), 74 L.J. Rep. K.B. 710; L.R. (1905) 2 K.B. 323, and restored that of Phillimore, J., being of opinion that the son had purchased the policies for full consideration, and that they were not an "interest purchased or provided by deceased" on which estate duty would have been payable under section 2, sub-section 1 (d), of the Finance Act, 1894.

(L.J. 785.)

COURT OF APPEAL.

Oct. 29, 30, 31, and Nov. 20.

(Before WILLIAMS, MOULTON, and BUCKLEY, L.JJ.)

In re Boden; Boden v. Boden.

Will—Annuity payable out of Income—Alternative Annuity Not Expressed to be so Payable—Charge on Corpus or Continuing Charge on Income.

By his will made in December 1904 W. Boden devised his mansion-house and the estate enjoyed therewith to his wife for her life, and after certain specific and pecuniary bequests he gave all his residuary real and personal estate to trustees upon trust for sale and conversion and to hold the net proceeds of sale upon trust in the first place to pay the interest on any mortgage that might be subsisting on the estate given to his wife for life, "and in the next place in case I shall leave any child living at my decease then upon trust to pay to my said wife during her life and so long as any child of mine shall be living such a sum out of the income of my residuary trust funds as with the income which my said wife shall from time to time receive under or by virtue of the settlements made on our marriage shall make up the

"total annual sum of £8,000. But in case I shall leave no child surviving me or leaving such every such child shall die in the lifetime of my said wife then upon trust to pay to her during her life such further sum as with the income to be derived from the said settlements shall make up the total annual sum of £10,000. And I direct that the said annual sums of £8,000 or £10,000 as the case may be shall be deemed to commence and be payable as from the date of my decease and subject to the trusts aforesaid in trust to pay and divide my residuary trust funds" among his children, and in default of children, and subject to the trusts aforesaid he gave his residuary trust funds to his nephew. The testator died in September 1905, without having had any issue. His widow was still living. The income of the residuary estate being insufficient to pay the annual sum required to make up, together with the income received by the widow under the settlements, £10,000 a year, this originating summons was taken out by the trustees of the will for the determination of the question whether the annual sum so required was a charge on the corpus of the residuary estate or a continuing charge on the income of that estate. Joyce, J., held that it was a charge on the corpus.

The testator's nephew appealed.

JUDGMENT.

Their Lordships (Moulton, L.J., dissenting), in reversing the decision of Joyce, J., decided that there were not two independent alternative gifts, but one provision for the widow in the shape of an annuity varying in amount according as one of two antithetical events should occur; that the words "out of the income of my residuary trust funds" governed both the connected clauses of the entire trust; that the words "subject to the trusts aforesaid" meant subject to the payment out of income of such sum as would make up £10,000 a year, and that consequently such annual sum was not a charge on the corpus nor a continuing charge on the income after the death of the widow. Appeal allowed.

(L.J. 785.)

CHANCERY DIVISION.

December 5 and 6.

(Before NEVILLE, J.)

Re Piercy (Deceased); Whitwham v. Piercy.

Tenant-for-Life and Remainderman—Company—Companies Act, 1880, secs. 3, 4, 5—Repayment of Capital by Company out of Profits—Capital or Income.

Adjourned summons. This case raised a question between the tenants-for-life and remaindermen interested under the will of Benjamin Piercy as to who was entitled to receive the sum of £310 4s. 2d., which had come to the hands of the

trustees as a return of part of the capital of certain fully-paid shares in the Shone Drainage, Sewerage, and Water Supply Co. (Limited and Reduced). It also involved a question as to the construction of sections 3, 4, and 5 of the Companies Act, 1880. Part of the outstanding personal estate of the testator Benjamin Piercy consisted of fifty shares of £10 each fully paid up in the above-mentioned company. It was found impossible to sell the shares, and accordingly an order was granted by the Court in 1892 giving the trustees leave to retain them. No dividends had ever been paid on the shares, but all the profits of the company were applied to the reduction of capital, in view of the fact that certain patents belonging to the company and forming their chief assets were gradually running out. The present summons asked (*inter alia*) that the trustees of the testator's estate might be at liberty to appropriate to income the sums received year by year from the said company in repayment of the said shares.

JUDGMENT.

Neville, J., after referring to the above facts, continued: With regard to the earlier of these payments made by the company they were made without the passing of any special resolution. The payment was accompanied by memoranda, one of which he had before him. It was dated the 29th of February 1904, and was addressed to one of the shareholders and signed by the secretary of the company, and ran: "Dear Sir,—I enclose cheque, value 'so-and-so,' being in 'payment of fifteen shillings and threepence per share on 'account and in reduction of share capital held by you in this 'company in accordance with the resolution passed at the 'annual meeting of the company and held on the 25th inst.," &c. On the 6th of September 1905 a special resolution was passed in accordance with the provisions of the Companies Act, 1880, s. 3. On the first part of that resolution, providing for the return of 7s. 6d. per share out of the accumulated and undivided profits, no question arose. The second part of the resolution was as follows: "That like returns 'heretofore made to each holder of 'A' or 'preferred' shares 'in the company, amounting altogether to £3 14s. 1d. per 'share, be and the same are hereby confirmed." And the third part ran: "That the directors be and they are hereby 'authorised at any time, and from time to time hereafter, out 'of accumulated undivided profits of the company to return 'to each holder of 'A' or 'preferred' shares in the company 'such sum or sums as the directors may think fit in further 'reduction of the paid-up capital of the company, and to the 'intent that the unpaid capital of the company may be 'increased by a like amount." With regard to parts 2 and 3 of the resolution, their validity had to be determined, inasmuch as they attempted to confirm returns made in the past and to authorise returns to be made in the future. It all depended on the construction of sections 3, 4, and 5 of the Companies Act, 1880. That section 3 was not intended to

enable a special resolution to be passed with prospective operation was shown by the initial words of the section: "When any company has accumulated," and was emphasised by the provision in section 5 giving any shareholder a right to require the company to "retain" within one month after the passing of the special resolution. That a retrospective effect was not intended was indicated by the reference to an "accumulated sum of undivided profits," and also by the fact that the shareholders who passed the resolution would not necessarily be the same as those to whom the return had been made. In his opinion, therefore, parts 2 and 3 of the special resolution were invalid. Then the question arose as to whether the tenants-for-life of the estate were entitled to receive the amounts returned with which those two parts of the resolution purported to deal. He thought they were; the true rule to be inferred from the cases as between tenant-for-life and remainderman seemed to be that the tenant-for-life was entitled to all payments out of profits made by a company, unless such profits had been validly capitalised by the company: *Bouch v. Sproule* (36 W.R. 193; 12 A.C. 385) and *Re Hopkins' Trusts* (22 W.R. 687; 18 Eq. 696). It being also clear that the testator's will gave the tenants-for-life the income of the testator's investments retained by the trustees, he would make the declaration asked for by the summons and order the sum therein mentioned to be treated as income of the estate. (51 S.J. 113.)

Miscellaneous.

CHANCERY DIVISION.

December 7.

(Before NEVILLE, J.)

Henry Leatham & Sons, Lim. v. Johnstone-White.

Restraint of Trade—Employment by Companies Associated under a Working Agreement—Agreement by Employé—Validity—Reasonable Protection of Associated Companies' Businesses.

The plaintiffs were a number of companies carrying on the trade of corn and wheat millers. Each of the companies had their own staff of servants and travellers, but each of them was for practical purposes under the control of the directors of Henry Leatham & Sons, Lim., the principal company. These directors were in a majority on every board of directors, and had the controlling interest in shares as well as representation on the boards of all the subsidiary companies.

On September 18th 1905 the defendant, who had then been for some time in the employ of one of the companies as a commercial traveller, entered into an agreement with

Sydney Leatham, acting on behalf of the principal and the subsidiary companies. Under this agreement the defendant agreed to serve any or either of the companies as Sydney Leatham (therein called "the Master") should from time to time direct in consideration for the salary therein mentioned. The employment was determinable at a month's notice, and by Clause 4 the defendant agreed with the Master that he would not within the area of the United Kingdom enter the service of any other wheat or corn millers or grain or flour factor or flour-milling engineer, or engage either directly or indirectly in selling or dealing with flour offals or any other articles or goods dealt in or manufactured by the principal and subsidiary companies within five years from the expiration of his engagement with either the principal or any or either of the subsidiary companies without the consent in writing of the principal company.

The defendant had acted as traveller for the principal company in the Portsmouth district from March to August 1905, and was then transferred to the service of the Cleveland Flour Mills, Lim., one of the subsidiary companies. On November 30 1905 he was given a month's notice to leave their service, owing, as was alleged by the plaintiffs, to his conduct and inattention to business.

Early in September 1906 it came to the knowledge of the plaintiffs that the defendant had entered the employ of William Marshall & Sons, Grimsby, Lim., of the Victoria and Haven Roller Flour Mills, Grimsby, and after some correspondence between the parties the present proceedings were commenced.

By this motion the plaintiffs asked for an injunction in the terms of Clause 4 of the agreement of September 18 1905. It was arranged that the hearing on the motion should be treated as a trial of the action.

C. E. E. Jenkins, K.C., and F. M. Preston, for the defendant, submitted that the agreement was bad in law because it was entered into to protect businesses other than the actual business of the defendant's employer. The question of reasonableness always depended on whether the agreement was reasonable for the protection of the employer's business, and if so regarded here the agreement in Clause 4 was clearly too wide.

JUDGMENT.

Neville, J., said that there was nothing in the terms imposed by the agreement contrary to the law of the country. The agreement in Clause 4 was for the benefit of all the associated companies, and having regard only to the interests of the employers, it was not an unreasonable agreement in the sense that it was wider than was necessary for the protection of their trade. In the present condition of the law he had no choice but to grant an injunction.

(L.J. 805.)

Receiverships.

KING'S BENCH DIVISION.

December 5.

(Before CHANNELL, J.)

Forster v. Nixon's Navigation Company, Lim.

Receiver—Debenture-holders—Receiver appointed by Court—Unexecuted Contract—Liability on.

This was an action brought by the plaintiff to recover the sum of £357 10s. 3d., the price of pit props sold and delivered by the plaintiff to the defendants in the following circumstances.

The plaintiff, who was a Chartered Accountant and member of the firm of W. B. Peat & Co., was on November 4 1905 appointed by the Court receiver and manager of Bell, Harrison & Co., Lim., on behalf of the debenture-holders. Bell, Harrison & Co., who were colliery timber merchants, carrying on business in South Wales, in June 1904 entered into a contract with the defendants to supply them with certain quantities of pit props to be delivered during the twelve months ended June 30 1905. Bell, Harrison & Co., Lim., became in arrear with their deliveries, and the defendants alleged that a verbal arrangement was entered into in June 1905, whereby it was agreed that the quantities still to be delivered should be delivered during the twelve months ended June 30 1906. Notice of the appointment of the plaintiff as receiver and manager was given to the defendants on November 7 1905, and again on November 13. Bell, Harrison & Co., on November 7 1905, wrote to the defendants:—"The company, whose only other obligations are the 'supply of colliery timber under existing contracts, these 'contracts we fully anticipate will be duly carried out.'" The plaintiff took time to consider his position, to write up the stock book, and also to ascertain the exact amount of the stock in the possession of the railway companies who stored the timber for Bell, Harrison & Co. In the meantime he delivered considerable quantities of timber to the defendants at the existing contract prices, which were considerably lower than the current market prices at the times of delivery. On November 29 the defendants wrote to Bell, Harrison & Co., "That the balance of contract remaining undelivered is as under," and the plaintiff replied that he had a considerable quantity of props which he was delivering to the defendants. On December 1 the defendants wrote to the plaintiff asking him to "take immediate steps to provide us with a large quantity on account of the balance of our contract," and that they were "anxious to get this contract completed at the earliest date possible." The plaintiff replied on December 4 that he was pushing on with deliveries. On December 15 the plaintiff gave notice to the defendants that he as receiver could not undertake to carry out their contract with Bell, Harrison & Co. The claim in this action was for the price

of the timber so delivered by the plaintiff as goods sold and delivered. The defendants by their defence alleged that the plaintiff adopted their contract with Bell, Harrison & Co. for the supply of timber, and made the deliveries the subject of the action under it, and alternatively that the deliveries made by the plaintiff were made in pursuance of the contract between Bell, Harrison & Co. and the defendants, and that the plaintiff had no right of action against the defendants except under that contract, and that it was subject to the defendants' right of set-off and counter-claim. The defendants claimed that they were entitled to set-off and counter-claim against the plaintiff £1,017 17s. 3d. as the difference between the contract price and the market price of the quantities of timber not delivered under their contract with Bell, Harrison & Co. In the course of the case it was admitted that the price of timber had risen so as to make the damages for non-delivery under the contract exceed the amount of the plaintiff's claim.

Mr. T. E. Scrutton, K.C., and Mr. F. D. Mackinnon appeared for the plaintiff, and contended that the plaintiff was only liable for his own acts and that there was no evidence that the contract had been adopted by him; that the deliveries must be taken to have been under a fresh contract, and that he did not make them as agent on behalf of a company who could not control him in any way.

Mr. J. E. Banks, K.C., and Mr. D. C. Leck appeared for the defendants, and argued that the plaintiff either adopted the contract and made it his own so as to become personally liable under it, or that he allowed Bell, Harrison & Co. to make deliveries under the contract, and that consequently the defendants would be entitled to set-off a sufficient sum as damages for breach of the contract against the price of the timber just as if Bell, Harrison & Co. were the actual plaintiffs.

JUDGMENT.

Mr. Justice Channell said that he had no doubt as to what the judgment ought to be, but he was not so sure as to the proper reasons to be given for it. In the present case a receiver and manager of the business of Bell, Harrison & Co., Lim., was appointed by the order of the Court, so that the appointment was adverse to the company. It also might be said to arise out of the assignment by the directors of the assets of the company to the debenture-holders as security for their money, under what was known as a floating security, but the company had authority to deal with the assets in the ordinary way of trading. The present plaintiff was appointed receiver and manager, and he thought it was perfectly clear since the case of *Burt, Boulton & Hayward v. Bull* (1895, 1 Q.B. 276), that a person who had got into that position was, in respect of contracts he thereafter entered into for the purpose of carrying on the business, to be regarded as a principal, and to be personally liable. But he (the Judge) did not know of

any case, nor had he been referred to any, which was an authority as to what the receiver's position was in respect of contracts entered into before he became receiver and manager, which was the present case. There was a contract by Bell, Harrison & Co., Lim., to deliver to the defendants a large quantity of colliery timber during the twelve months ending June 30 1905, and Bell, Harrison & Co. fell into arrears with their deliveries. He was satisfied that an arrangement had been made in June 1905 for an extension of time for delivery, and that the quantities still undelivered should be delivered during the twelve months up to June 30 1906. If the plaintiff had been the trustee of an undischarged bankrupt instead of receiver and manager of a company, he would, under section 55, subsection 4, of the Bankruptcy Act, 1883, after notice to him, have had to elect to disclaim the contract or be held to have accepted it, but there was no such provision in the case of a company. It was suggested that if he delivered any timber under the contract he thereby undertook to be personally responsible for the whole contract. The learned Judge saw no authority for that proposition, and if it had to be drawn as an inference of fact, he should decline to draw it. What the plaintiff did was to deliver timber and also to purport to deliver it in pursuance of the existing contract to the extent of £350 or thereabouts. On the one hand it was contended that he was entitled to recover as for goods sold and delivered by him, that was on a new promise to pay for goods delivered by him which was independent of the contract that previously existed, but that was not what the parties intended, because it was agreed that the timber was delivered at the contract price which was at the time of delivery considerably under the current market price. It seemed to him that what the plaintiff did was to carry out the obligations of Bell, Harrison & Co., but if he did that he must do it either as agent for Bell, Harrison & Co., or as assignee of their rights. If the plaintiff came in as assignee it was well settled that he could only recover subject to the rights of the other party to set-off any claim they might have against his assignor arising out of the same matter. That was unless there was a special contract, which there was not in the present case. The learned Judge did not think the plaintiff made himself personally liable on the contract, but he also thought he could not recover on his claim except subject to the rights of the defendants to set-off their claim arising out of the contract against his, because he could only recover as assignee. He was not sure that the plaintiff could recover at all, inasmuch as he only came in to perform the contract of another, but even if he was entitled to sue, it was only subject to the equities of the defendants, and as it was admitted that the defendants' set-off far exceeded the amount of the plaintiff's claim, there must be judgment for the defendants with costs on the claim, but the plaintiff was to have judgment upon and costs of the defendants' counter-claim as apart from set-off.

